

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK  
4 CASE NO. CV-18-2710

5 -----x  
6 MARIO H. CAPOGROSSO,

7  
8 Plaintiff,

9 -against-

10 ALAN GELBSTEIN, et al.,

11 Defendants.  
12 -----x

13 December 18, 2020

14 11:48 a.m.

15 VIDEO EXAMINATION BEFORE TRIAL of  
16 MARIO H. CAPOGROSSO, the Plaintiff  
17 herein, taken by the Defendants, pursuant  
18 to Notice, before Lisa H. MacDonald, RPR,  
19 and Notary Public of the State of New  
20 York.

21  
22 VOLUME II  
23  
24  
25

<p style="text-align: right;">Page 126</p> <p>1 2 APPEARANCES: 3 4 5 MARIO H. CAPOGROSSO, ESQ. 6 21 Sheldrake Place 7 New Rochelle, New York 10804 8 Plaintiff Pro Se 9 10 STATE OF NEW YORK, OFFICE OF THE ATTORNEY 11 GENERAL, LETITIA JAMES 12 28 Liberty Street 13 New York, New York 10005 14 Attorneys for Defendants 15 BY: JAMES THOMPSON, ASSISTANT 16 ATTORNEY GENERAL 17 18 ALSO PRESENT: 19 20 Howard Brodsky, Videographer 21 22 23 24 25</p>	<p style="text-align: right;">Page 128</p> <p>1 M.H. Capogrosso 2 on a case and you don't show up on that 3 case, your reputation has been -- has 4 been damaged. It's been taken away. 5 Nobody is going to trust you anymore. 6 Nobody is going to hire you on another 7 case especially in Brooklyn if you take 8 their money and you don't show up. The 9 worst thing you can do to a Brooklyn 10 motorist or a Brooklyn client is take 11 their money and not show up. 12 I've dealt with the Brooklyn 13 community for 10 years. I've had threats 14 against my safety from the Brooklyn 15 community when I don't show up for a case 16 and I took their money. It's the worst 17 thing you can do is not show up on a case 18 and you take their money. 19 These are all cab drivers 20 that -- a lot of these cases. They're 21 all business -- they're all working men 22 for a living and you can't take their 23 money and not show up. 24 Now my reputation for 25 showing up in a courthouse in the</p>
<p style="text-align: right;">Page 127</p> <p>1 M.H. Capogrosso 2 MR. VIDEOGRAPHER: The time 3 is 11:48. We are on the record. 4 EXAMINATION BY 5 MR. THOMPSON: 6 Q So thank you, 7 Mr. Capogrosso. You can see we are back 8 looking at Exhibit 1; correct? 9 A Yes. 10 Q And we are at page 4 of the 11 breakdown of your damages. You see item 12 number 4 which talks about compensatory 13 damages to the loss and resultant damages 14 to your legal reputation in the Brooklyn 15 community. You see that, correct, 16 Mr. Capogrosso? 17 A I do, yeah. 18 Q And you estimated damages as 19 5 times the value of 15 months of your 20 revenue; is that correct? 21 A Yes. 22 Q So how did you arrive at 23 that figure? 24 A Well, your reputation as an 25 attorney is paramount. If you take money</p>	<p style="text-align: right;">Page 129</p> <p>1 M.H. Capogrosso 2 Brooklyn community has been -- has been 3 just -- has been ruined. I can't tell 4 you how it's been ruined. Who's going to 5 hire me on a case again? That's how I 6 got that number. 7 Q So but when you -- I 8 understand you feel that your reputation 9 has been harmed, but why did you 10 determine that the value of it was 5 11 times \$122,715? 12 A The exact number -- well, 13 122 was the money I could have brought 14 in, 122 and five years is the amount of 15 money since I left to the time I brought 16 the Complaint. I was removed on May 11, 17 2015 and to currently right now it's been 18 five years. 19 Q So -- 20 A Five and-a-half years. I 21 could have put it at 5.5, but I put it at 22 five. 23 Q So you chose that number 24 because you feel that it reflects the 25 amount of money that you could have</p>

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1 M.H. Capogrosso  
 2 brought in over those five years;  
 3 correct?  
 4 A Over those five years, plus  
 5 the damage to my reputation over those  
 6 five years.  
 7 Q Yeah. The question I'm  
 8 trying to get at, Mr. Capogrosso, is why  
 9 do you put the value of the damage of  
 10 your reputation as the same of the value  
 11 of five years of your expense -- of your  
 12 income or your billings rather?  
 13 A Well, that was the five  
 14 years I was not able to -- the damage to  
 15 my reputation for those five years I was  
 16 not present and being able to do this  
 17 type of work, not being able to talk to  
 18 my clients, not being able to represent  
 19 my clients for those five years.  
 20 Q I guess my question is  
 21 what's the difference between your  
 22 reputational claims and the future  
 23 prospective revenue that you could be --  
 24 that you also claim?  
 25 A Revenue is one thing.

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1 M.H. Capogrosso  
 2 Damage to -- I might not be able to get  
 3 that revenue ever again counsel. I might  
 4 not ever be able to generate any type of  
 5 revenue in this community or in any TVB  
 6 in New York. I might not be able to  
 7 generate that revenue again.  
 8 Now that is for a jury to  
 9 decide as to what the damage to my  
 10 reputation is, a jury to decide how these  
 11 defendants should be punished. I have  
 12 given you figures. I have told you the  
 13 total amount of revenue I brought in, the  
 14 amount of months, what it breaks down per  
 15 month. I've given you my figures. A  
 16 jury needs to make those determinations,  
 17 but that's how I made it, the five years  
 18 I've been out, the value to my reputation  
 19 that I don't think I'll be able to get  
 20 many more clients in the Brooklyn  
 21 community because of this and the money  
 22 which I lost because I was not able to  
 23 work for the Brooklyn community during  
 24 this period of time.  
 25 Q So let me ask you -- let me

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1 M.H. Capogrosso  
 2 ask the question a different way. If  
 3 your reputation had not been harmed at  
 4 all and you had continued practicing in  
 5 the TVB, would you have -- you would have  
 6 continued making money at that \$8,181 per  
 7 month or you would have continued --  
 8 sorry. Let me withdraw the question and  
 9 phrase it a different way.  
 10 If you had not had your  
 11 reputation damaged at all, isn't it the  
 12 case that you would have just continued  
 13 making the same amount of money you were  
 14 making before you were expelled?  
 15 A Well, I don't know that. I  
 16 can't assume that. I can't assume it. I  
 17 may have made more. I may have made  
 18 less. I don't know. I probably would  
 19 have made more because people liked me.  
 20 My clients liked me. My clients really  
 21 liked me.  
 22 I probably would have  
 23 brought even more money in, which is the  
 24 reason some of these attorneys down there  
 25 wanted me out. It's a very competitive

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1 M.H. Capogrosso  
 2 business this ticket broker, this ticket  
 3 business. We are all vying for the  
 4 same -- the same ticket. There's only so  
 5 many tickets written. It's a very  
 6 competitive business with the attorneys.  
 7 So my reputation was growing  
 8 and I probably would have made more.  
 9 Q So let me ask you, do you  
 10 have any basis to believe or any evidence  
 11 for the proposition that you would have  
 12 made more money in the future?  
 13 A My clients liked me. My  
 14 reputation was good at that point. I  
 15 reestablished my reputation. I was  
 16 getting -- I was getting, you know,  
 17 clients, you know. I don't know. People  
 18 liked me. My clients liked me.  
 19 Q And how do you know that  
 20 your reputation was damaged?  
 21 A Nobody is going to hire me  
 22 anymore when you -- I had to call 850  
 23 clients, I gave you my calendar, 850  
 24 clients and tell them I can't show up.  
 25 You took my money, Counsel, why aren't

<p style="text-align: right;">Page 134</p> <p>1 M.H. Capogrosso</p> <p>2 you here? I had to explain it to 850</p> <p>3 clients.</p> <p>4 I can't tell you why. I</p> <p>5 have no idea. I was given nothing in</p> <p>6 writing. I was told by Danielle Calvo to</p> <p>7 leave and told by Ida Traschen I'm not</p> <p>8 allowed. I was given nothing in writing.</p> <p>9 I have nothing to tell them. I was given</p> <p>10 nothing by your office. I have nothing</p> <p>11 to tell my clients. I don't know why. I</p> <p>12 have no reason. I was told to leave.</p> <p>13 Q All right.</p> <p>14 A So my reputation -- so my</p> <p>15 reputation has been damaged.</p> <p>16 Q But you were still able to</p> <p>17 get jobs in the legal community. You</p> <p>18 said you represented clients on dozens of</p> <p>19 cases, personal injury cases, criminal</p> <p>20 cases and other cases; isn't that</p> <p>21 correct?</p> <p>22 A It took me a while to get a</p> <p>23 job. They're not easy to find,</p> <p>24 especially as you get older. They're not</p> <p>25 easy to find. It took me a year to find</p>	<p style="text-align: right;">Page 136</p> <p>1 M.H. Capogrosso</p> <p>2 yes, it was ruined. In terms of the</p> <p>3 employers, no, it was not ruined because</p> <p>4 I was never asked.</p> <p>5 Q So can you specifically</p> <p>6 identify any economic harm that you've</p> <p>7 caused -- that you've suffered based on</p> <p>8 the damage to your reputation?</p> <p>9 A If I was to go back to</p> <p>10 practice this type of law, I'm not going</p> <p>11 to get as many cases as I did before. My</p> <p>12 name and reputation as somebody who shows</p> <p>13 up and argues a case and represents a</p> <p>14 client zealously, which is an oath I</p> <p>15 took, is not the same and it's not by my</p> <p>16 fault. It's not by my fault. I took an</p> <p>17 oath to zealously advocate and I could</p> <p>18 not zealously advocate because I was</p> <p>19 removed for no reason. No reasons were</p> <p>20 given to me. I got a 10 second phone</p> <p>21 call from Ida Traschen.</p> <p>22 Q Okay. But so the question</p> <p>23 was can you specifically identify any</p> <p>24 economic harm that has been caused by the</p> <p>25 damage to your reputation?</p>
<p style="text-align: right;">Page 135</p> <p>1 M.H. Capogrosso</p> <p>2 the first job and then Jiang was nice,</p> <p>3 then Jiang's office, but it's not easy,</p> <p>4 it is not and it's not --</p> <p>5 Q Did you --</p> <p>6 A I liked -- I liked doing</p> <p>7 what I did.</p> <p>8 Q But your reputation --</p> <p>9 A People my age are retiring,</p> <p>10 retiring at this age. I like to work and</p> <p>11 it's not easy getting a job at this age.</p> <p>12 Q Your reputation didn't</p> <p>13 prevent you from getting these jobs</p> <p>14 though, the one in the Perla firm and</p> <p>15 then the one at the Jiang firm; is that</p> <p>16 correct?</p> <p>17 A I had to leave this type</p> <p>18 of -- well, they didn't know about this,</p> <p>19 my reputation. They didn't know about</p> <p>20 this lawsuit or that I didn't show up on</p> <p>21 cases, I wasn't allowed to show up.</p> <p>22 Neither one of them asked me about this.</p> <p>23 I would have told them if they did, but</p> <p>24 they didn't ask me.</p> <p>25 But in terms of the clients,</p>	<p style="text-align: right;">Page 137</p> <p>1 M.H. Capogrosso</p> <p>2 A I'm not able to generate the</p> <p>3 income that I was generating at the</p> <p>4 Brooklyn TVB and I showed you the revenue</p> <p>5 I was bringing in.</p> <p>6 Q But is that because you're</p> <p>7 not practicing at the Brooklyn TVB or is</p> <p>8 that because of the damage to your</p> <p>9 reputation?</p> <p>10 A Because I'm not working at</p> <p>11 the Brooklyn TVB and because of the</p> <p>12 damage to my reputation. No one is ever</p> <p>13 going to give me a case again down there,</p> <p>14 nobody.</p> <p>15 Q Because you --</p> <p>16 A Nobody is going to give me a</p> <p>17 case.</p> <p>18 Q Because you can't practice</p> <p>19 there?</p> <p>20 A I can't practice there and</p> <p>21 if I could they still wouldn't hire me.</p> <p>22 Q So it's more a contingent</p> <p>23 thing in the event that you were to be</p> <p>24 reinstated?</p> <p>25 A Listen, my -- my reputation</p>

<p style="text-align: right;">Page 138</p> <p>1 M.H. Capogrosso</p> <p>2 as an attorney has been damaged. I have</p> <p>3 to explain this removal from the Brooklyn</p> <p>4 TVB in 50 states in the United States if</p> <p>5 I decide to go practice in any one of</p> <p>6 these states, 50. In federal court, I</p> <p>7 have to explain this. Immigration court,</p> <p>8 I have to explain this. If I decide to</p> <p>9 go down to the US PTO patent court, I</p> <p>10 have to explain this.</p> <p>11 That's the damage to my name</p> <p>12 and reputation. I have to explain this</p> <p>13 every place I go down the road and every</p> <p>14 court I seek admittance to I have to</p> <p>15 explain it. You put a number on it. I'm</p> <p>16 low. This number should be much higher.</p> <p>17 You have to explain this when you try to</p> <p>18 seek admission to another state court</p> <p>19 someplace or to your federal court, the</p> <p>20 Eastern District court, try to.</p> <p>21 I was removed without an</p> <p>22 explanation as to what happened. A 10</p> <p>23 second phone call from Ida Traschen, from</p> <p>24 somebody, a clerk who didn't even look at</p> <p>25 the videotape. That's the damage --</p>	<p style="text-align: right;">Page 140</p> <p>1 M.H. Capogrosso</p> <p>2 case. I didn't talk to the judges</p> <p>3 outside the courtroom. You're not</p> <p>4 allowed to.</p> <p>5 Q So you don't know if you</p> <p>6 were liked and respected by the judges --</p> <p>7 A I didn't --</p> <p>8 Q -- is that correct?</p> <p>9 A I cared what my clients</p> <p>10 thought. I cared what my clients</p> <p>11 thought. I argued a tough case. I</p> <p>12 wasn't trying to please a judge. I was</p> <p>13 trying to win my client's case. I was</p> <p>14 not trying to please the judge.</p> <p>15 Q I understand that,</p> <p>16 Mr. Capogrosso, but the question was a</p> <p>17 little narrower. Do you know if the</p> <p>18 judges liked and respected you?</p> <p>19 A No, I don't. I don't know.</p> <p>20 I really don't care.</p> <p>21 Q Okay.</p> <p>22 A I really don't care. I did</p> <p>23 what I had to do for my clients. Whether</p> <p>24 a judge liked me or not --</p> <p>25 Q Okay?</p>
<p style="text-align: right;">Page 139</p> <p>1 M.H. Capogrosso</p> <p>2 Q So how would you --</p> <p>3 A -- to my reputation.</p> <p>4 Q How would you describe your</p> <p>5 reputation while you were practicing at</p> <p>6 the TVB?</p> <p>7 A My clients loved me. I sent</p> <p>8 you my reviews. They loved me. Police</p> <p>9 officers didn't like me. I argued a very</p> <p>10 tough case. The other attorneys didn't</p> <p>11 like me, I was competition, I know that.</p> <p>12 But my clients -- the clerks didn't love</p> <p>13 me, I know that, too, because I wasn't</p> <p>14 giving them gifts and money and buying</p> <p>15 them breakfast, I understand that.</p> <p>16 But my clients loved me. I</p> <p>17 argued every case.</p> <p>18 Q Did the ALJs like you?</p> <p>19 A I don't know. I didn't</p> <p>20 associate with judges. You're not</p> <p>21 allowed to. There's a rule about that.</p> <p>22 There's a rule you're not supposed to</p> <p>23 talk to judges outside a courtroom.</p> <p>24 Whether they liked me or not, I really</p> <p>25 didn't care. I know I argued a good</p>	<p style="text-align: right;">Page 141</p> <p>1 M.H. Capogrosso</p> <p>2 A -- I wasn't trying to seek</p> <p>3 their favor.</p> <p>4 Q And the clerks, did the</p> <p>5 clerks like and respect you?</p> <p>6 A Clerks, I don't think they</p> <p>7 liked me, no. I told you I wasn't giving</p> <p>8 them any money. I wasn't giving them --</p> <p>9 Q Why not?</p> <p>10 A -- a piece of the action.</p> <p>11 No, I don't think the clerks</p> <p>12 liked me. No, I think maybe one clerk</p> <p>13 liked me. I treated them all nicely and</p> <p>14 respectfully. I might have been loud. I</p> <p>15 have a loud voice when I talk. I never</p> <p>16 verbally abused anyone. Never called --</p> <p>17 never made a racial threat, verbally</p> <p>18 abused anyone.</p> <p>19 I would argue zealously for</p> <p>20 my clients, I wanted the best for them,</p> <p>21 but I never verbally abused anyone.</p> <p>22 Q And the other attorneys, did</p> <p>23 they like you?</p> <p>24 A The other attorneys? We</p> <p>25 were in a competitive business, no. No,</p>

5 (Pages 138 - 141)

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1 M.H. Capogrosso  
 2 they didn't like me. Yaakov Brody told  
 3 me to go fuck myself, I'm a Jew hater  
 4 anti-Semite because I was making too much  
 5 money in his presence. He had no other  
 6 reason for saying it.  
 7 When you go through all the  
 8 complaints written against me, there's  
 9 not one from a client or a motorist that  
 10 I made a racial epi -- a racial remark or  
 11 an anti-Semitic remark, not one from a  
 12 client. There's a couple complaints  
 13 about a fee, that I didn't show up or  
 14 something about a fee, but not one that I  
 15 made a racial remark or an inappropriate  
 16 remark to a client or I didn't show up on  
 17 a case.  
 18 Now Yaakov Brody didn't like  
 19 me and I'm sure --  
 20 Q So is it your contention --  
 21 A Yes.  
 22 Q I apologize. I didn't mean  
 23 to cut you off, Mr. Capogrosso.  
 24 A Go ahead. I'm listening.  
 25 Q So is it your contention

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1 M.H. Capogrosso  
 2 that the complaints about you are made  
 3 up?  
 4 A There's no substance. No,  
 5 they're not made up. They're real. I  
 6 saw them. I was given no opportunity to  
 7 respond to them. The first time I saw  
 8 these complaints was -- well, I was given  
 9 no opportunity to respond. I might have  
 10 seen -- I know I saw them in response to  
 11 the --  
 12 Q Let me rephrase the  
 13 question.  
 14 A I saw the complaints in  
 15 response to the motion to dismiss, the  
 16 first time I saw them.  
 17 Q Let me rephrase the  
 18 question. We are not -- Mr. Capogrosso,  
 19 if I may, obviously there's not a  
 20 question as to whether the complaints are  
 21 real or not, but is it your contention  
 22 that the allegations in the complaints  
 23 are untruthful?  
 24 A Yes, absolutely. I was  
 25 given no --

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1 M.H. Capogrosso  
 2 Q How --  
 3 A I'll go through them one by  
 4 one. Put them up, let's go through them.  
 5 I'll respond to every complaint written  
 6 against me. I will respond to every  
 7 complaint written against me, I will  
 8 respond to. I'm glad I have the  
 9 opportunity. I --  
 10 Q So that is where we are  
 11 going to next. Hold on one quick second  
 12 while I bring up the first of them.  
 13 Mr. Capogrosso, can you see  
 14 the exhibit that I've just brought up?  
 15 A Yeah. April 1. Yes, not  
 16 the whole part of it. I can only see the  
 17 top portion of it, so I'd like to read --  
 18 MR. THOMPSON: Madam Court  
 19 Reporter, can you see it?  
 20 MR. VIDEOGRAPHER: This is  
 21 the videographer. I see it, Counsel.  
 22 A I can only see a portion of  
 23 it.  
 24 Q Yeah. There's more down  
 25 here.

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1 M.H. Capogrosso  
 2 MR. THOMPSON: I just wanted  
 3 to check with Ms. MacDonald because I  
 4 know you just swapped in. Are you  
 5 seeing the exhibits okay?  
 6 MS. REPORTER: Sorry. I was  
 7 on mute. Yes.  
 8 MR. THOMPSON: Okay. Good.  
 9 Q So, Mr. Capogrosso, do you  
 10 recognize this document?  
 11 A Well, I'd like to see the  
 12 bottom of it. I do recognize it,  
 13 absolutely.  
 14 Q Sure.  
 15 A All right. Go ahead. Yes.  
 16 I know exactly what this is.  
 17 Q And this is, just for the  
 18 record, this is a document that you  
 19 produced at number P-80; is that correct?  
 20 A I've produced it. I think  
 21 you produced it. You had this. I've  
 22 also given it back to you. Yes, it's  
 23 been produced.  
 24 Q And you said you recognize  
 25 it. What is this document?

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1 M.H. Capogrosso  
 2 A Well, this is the date with  
 3 Tanya Rubinowitz. This is the lawyer,  
 4 the woman calling herself a lawyer in  
 5 Judge Gelbstein's courtroom and this is  
 6 written by a clerk, I'm not sure who that  
 7 is, Perez, one of the clerks there and it  
 8 happened on 2009.  
 9 This is after I called the  
 10 District Attorney and I said we have a  
 11 woman down here calling herself a lawyer  
 12 on a repeated basis and people asked me  
 13 where's Tanya, the lawyer. I said she's  
 14 not a lawyer.  
 15 And she approaches me that  
 16 day and says did you call -- did you call  
 17 the District Attorney? I said yes, I  
 18 did, I admitted it to her and then she  
 19 starts yelling and berating me and I  
 20 tried walking away from her.  
 21 Now, this clerk -- this  
 22 happened near the attorney's room. I  
 23 know exactly where it happened. Between  
 24 the attorney's room and the clerks, it's  
 25 at least 60 feet.

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1 M.H. Capogrosso  
 2 But that's what happened.  
 3 She came at me yelling and screaming why  
 4 did you call the District Attorney. I  
 5 admitted that I did. I could not have  
 6 admitted to it. I could have said I  
 7 didn't call her, right. I could have  
 8 just walked away, but I didn't. I  
 9 admitted the truth and I tried walking  
 10 away. That's what happened.  
 11 I wasn't charged. I wasn't  
 12 arrested. I didn't do anything wrong but  
 13 tried to get away from the situation and  
 14 telling the truth. I told her what  
 15 happened and what I did.  
 16 Q So in this statement from  
 17 Mr. Perez he writes that he saw -- "He  
 18 observed and heard Mr. Capogrosso  
 19 screaming and yelling profanities and  
 20 obscenities at Ms. Rabinovich, Tanya."  
 21 Is that true?  
 22 A No, it's not. There's not  
 23 one --  
 24 Q You did not?  
 25 A No. I did not. I was

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1 M.H. Capogrosso  
 2 telling her to get away from me. I  
 3 didn't yell any profanity because you  
 4 know what, they're not listed there. And  
 5 what obscenity was used? The clerk  
 6 doesn't put it down.  
 7 I was telling her to get  
 8 away from me, but I yelled no profanity  
 9 and no obscenity. You can't make an  
 10 allegation that I used a profanity or  
 11 obscenity if you don't tell me what it is  
 12 and I used none. I never talked to a  
 13 woman like that, never. I treat women  
 14 very respectful.  
 15 I was loud, that I agree I  
 16 was loud, but I did not use a profanity  
 17 or obscenity and none is listed. Tell me  
 18 which one I used.  
 19 Q Mr. Perez also writes that  
 20 "Mr. Capogrosso was sitting down. I  
 21 observed him getting up" -- "get up from  
 22 his seat and approach Ms. Rabinovich  
 23 walking fast and hard toward her when he  
 24 bumped real hard into her as he tried to  
 25 pass by her, which was very unnecessary

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1 M.H. Capogrosso  
 2 given he had plenty of room to walk  
 3 around her."  
 4 Is that true?  
 5 A I did get up. She's right  
 6 in my face, right about three feet away  
 7 from me, right on top of me. I did get  
 8 up and walk away. I don't recall bumping  
 9 into her, no. I would never hit a woman,  
 10 never, never.  
 11 Q Would you bump --  
 12 A I don't -- she was like  
 13 right on top of me, maybe three feet  
 14 away, pointing her finger at me and  
 15 yelling at me in Russian and some other  
 16 nonsense, yelling and screaming at me.  
 17 Did I bump into her, no. I  
 18 would never hit a woman. But I did tell  
 19 her to get away from me and I did admit  
 20 to what I did and she was upset, but she  
 21 didn't --  
 22 Q Did you --  
 23 A She was upset.  
 24 Q Did you make contact with  
 25 her in any way?

<p style="text-align: right;">Page 150</p> <p>1 M.H. Capogrosso</p> <p>2 A No, not that I recall, no.</p> <p>3 She would have filed a police report</p> <p>4 against me that I hit her and none was</p> <p>5 filed. I do not recall hitting her,</p> <p>6 absolutely not.</p> <p>7 Q So I'll tell you,</p> <p>8 Mr. Capogrosso, we are going to look at a</p> <p>9 number of reports and this has some</p> <p>10 similarities to some other ones in there</p> <p>11 will be a number of reports that say that</p> <p>12 you were yelling and shouting obscenities</p> <p>13 and there will be a number of reports</p> <p>14 saying that you bump into people and then</p> <p>15 indicate that it's not on purpose.</p> <p>16 A Well --</p> <p>17 Q Is there any truth to that?</p> <p>18 A Well, you can write and say</p> <p>19 whatever you want. You can write and say</p> <p>20 whatever you want. You know, I was never</p> <p>21 arrested on anything. I didn't yell any</p> <p>22 obscenity. You have to give me the</p> <p>23 obscenity I used. You can make any</p> <p>24 allegation you want at me. You have to</p> <p>25 prove it. You have to have some type of</p>	<p style="text-align: right;">Page 152</p> <p>1 M.H. Capogrosso</p> <p>2 So let's just ask here,</p> <p>3 Mr. Perez who wrote this statement, is he</p> <p>4 lying?</p> <p>5 A I did not bump into anybody.</p> <p>6 I did not hit anybody. I did walk away</p> <p>7 from this woman who approached me,</p> <p>8 approached me and asked me if I called</p> <p>9 the DA on her and I said yes, I did, but</p> <p>10 that story doesn't get --</p> <p>11 Q So --</p> <p>12 A -- that story doesn't get</p> <p>13 told.</p> <p>14 Q So Mr. Capogrosso that</p> <p>15 wasn't quite the question. The question</p> <p>16 is is Mr. Perez lying?</p> <p>17 A That I used an obscenity,</p> <p>18 absolutely, absolutely.</p> <p>19 Q Why would he lie?</p> <p>20 A They like Tanya. I told you</p> <p>21 this already. Tanya was doing business</p> <p>22 with the clerks. I saw Tanya at the</p> <p>23 clerk's counter rescheduling cases as if</p> <p>24 she was a lawyer. Maybe she was entering</p> <p>25 guilty pleas at the counter as if she was</p>
<p style="text-align: right;">Page 151</p> <p>1 M.H. Capogrosso</p> <p>2 corroboration. Is anybody corroborating</p> <p>3 this, Ms. Perez, that they saw me?</p> <p>4 Q Well --</p> <p>5 A Was there a police report</p> <p>6 written against me?</p> <p>7 Q Well, this is not a, you</p> <p>8 know, this is not a statement in a court</p> <p>9 of law. This is just a complaint saying</p> <p>10 what happened; isn't it?</p> <p>11 A Well, where's my affidavit</p> <p>12 in response? Where's Judge Gelbstein</p> <p>13 giving me a chance to respond to this so</p> <p>14 we get right to the heart of the matter</p> <p>15 in 2009?</p> <p>16 Q So this person L. Perez,</p> <p>17 Jr., do you know who that is?</p> <p>18 A No.</p> <p>19 Q It says MVR 1. Do you know</p> <p>20 what an MVR 1 is?</p> <p>21 A No.</p> <p>22 Q I would suspect that it</p> <p>23 means Motor Vehicle Representative 1,</p> <p>24 which is the pay grade for the people who</p> <p>25 work as clerks behind the counter.</p>	<p style="text-align: right;">Page 153</p> <p>1 M.H. Capogrosso</p> <p>2 a lawyer. She had a case load.</p> <p>3 She had an office right</p> <p>4 outside the DMV and they were doing work</p> <p>5 for her for some reason, which I don't</p> <p>6 know, but, you know, it wasn't for free,</p> <p>7 so they liked Tanya.</p> <p>8 Q And so you think Perez was</p> <p>9 lying because Ms. Rabinovich bribed the</p> <p>10 clerks --</p> <p>11 A That's not --</p> <p>12 Q -- is that correct?</p> <p>13 A I don't know. I don't know.</p> <p>14 I know I didn't bump into anybody. I</p> <p>15 know she was right on top of me. I know</p> <p>16 I don't use obscenities with women,</p> <p>17 absolutely not. There's not one --</p> <p>18 Q Okay.</p> <p>19 A -- from a motorist. If you</p> <p>20 go through all the complaints against me,</p> <p>21 they're all by clerks. Not one motorist</p> <p>22 or client has made a complaint against me</p> <p>23 that I used an obscenity. You go through</p> <p>24 all my complaints.</p> <p>25 Q Well, we'll see some --</p>

<p style="text-align: right;">Page 154</p> <p>1 M.H. Capogrosso</p> <p>2 A You go through all my</p> <p>3 complaints.</p> <p>4 Q Well, we'll see some of</p> <p>5 those as we go forward. I'm going to</p> <p>6 bring up another document here.</p> <p>7 MR. THOMPSON: Oh, actually</p> <p>8 before I do, Madam Court Reporter,</p> <p>9 Ms. MacDonald, can I ask you to</p> <p>10 please mark that as Exhibit 3?</p> <p>11 Ms. MacDonald?</p> <p>12 MS. REPORTER: Sure. I</p> <p>13 usually don't like to speak while</p> <p>14 you're videotaping so I've just been</p> <p>15 nodding, but, yes, I'm noting in the</p> <p>16 index that it will be marked.</p> <p>17 MR. THOMPSON: Okay. Good.</p> <p>18 MS. REPORTER: Are you</p> <p>19 e-mailing -- did you e-mail all of</p> <p>20 these exhibits to the other reporter?</p> <p>21 MR. THOMPSON: Well, we</p> <p>22 e-mailed all of them to Veritext</p> <p>23 yesterday and we got a receipt, a</p> <p>24 confirmation e-mail and I know that</p> <p>25 the other reporter had them.</p>	<p style="text-align: right;">Page 156</p> <p>1 M.H. Capogrosso</p> <p>2 bumped into her because I didn't bump</p> <p>3 into her. That's Roy's version of the</p> <p>4 same story. I'm telling the woman to get</p> <p>5 away from me.</p> <p>6 Q So this is a complaint</p> <p>7 written by Roy Tucci; correct?</p> <p>8 A Yeah, Roy I know. He's one</p> <p>9 of the clerks. There's no indication --</p> <p>10 Q Does --</p> <p>11 A Wait, you've got to let me</p> <p>12 finish.</p> <p>13 Q Sure.</p> <p>14 A There's no indication I</p> <p>15 verbally abused or I said any</p> <p>16 obscenities. Now they both observed the</p> <p>17 same incident. What Roy states is I told</p> <p>18 Tanya to get away from me, which I did.</p> <p>19 MR. THOMPSON: So -- well,</p> <p>20 first of all, Madam, Ms. MacDonald,</p> <p>21 can I ask you to please mark this as</p> <p>22 Exhibit 4?</p> <p>23 (The above-referred-to</p> <p>24 statement was marked as Exhibit 4 for</p> <p>25 identification as of this date.)</p>
<p style="text-align: right;">Page 155</p> <p>1 M.H. Capogrosso</p> <p>2 MS. REPORTER: Okay.</p> <p>3 (The above-referred-to</p> <p>4 statement was marked as Exhibit 3 for</p> <p>5 identification as of this date.)</p> <p>6 Q Mr. Capogrosso, I'm going to</p> <p>7 bring up another exhibit --</p> <p>8 A Yes.</p> <p>9 Q -- and share my screen here.</p> <p>10 Mr. Capogrosso, do you see</p> <p>11 the exhibit?</p> <p>12 A Yes, yes. I remember that</p> <p>13 one. April, yes.</p> <p>14 Q And you see this one was</p> <p>15 produced by you and marked P-82; correct?</p> <p>16 A Yes.</p> <p>17 Q And so what is this</p> <p>18 document?</p> <p>19 A Well, this is the same</p> <p>20 incident and look what Roy says. Look</p> <p>21 what Roy says. He was seated on the</p> <p>22 bench. He stated get away from me, which</p> <p>23 is what I'm telling Tanya. Then he rose</p> <p>24 up and told Tanya to get away.</p> <p>25 There's no indication I</p>	<p style="text-align: right;">Page 157</p> <p>1 M.H. Capogrosso</p> <p>2 Q And, Mr. Capogrosso,</p> <p>3 Mr. Tucci does say that he heard a loud</p> <p>4 voice and that he saw you.</p> <p>5 A Well, I do speak loudly,</p> <p>6 yes.</p> <p>7 Q He then writes "He then rose</p> <p>8 and told Tanya the interpreter to get</p> <p>9 away. Mr. Capogrosso moved towards Tanya</p> <p>10 and they seemed to bump."</p> <p>11 A I didn't --</p> <p>12 Q "The noise continued" --</p> <p>13 A Go ahead, finish.</p> <p>14 Q So this is Mr. Tucci</p> <p>15 corroborating that you bumped into</p> <p>16 Ms. Rabinovich; isn't that correct?</p> <p>17 A She bumped into me. I'm</p> <p>18 trying to get away from her. She</p> <p>19 approaches me. She's right on top of me.</p> <p>20 I'm telling her to get away. She's</p> <p>21 yelling and screaming in Russian at me</p> <p>22 pointing her finger at me and I'm trying</p> <p>23 to get away from her.</p> <p>24 He doesn't indicate I bumped</p> <p>25 into her. He said they seemed to bump.</p>

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1 M.H. Capogrosso

2 Q Well, he said that you moved

3 toward Tanya. You'll see I'm

4 highlighting that language here. He says

5 that you moved toward her.

6 A She's right in front of me.

7 I'm trying to get away from this woman

8 who's yelling and screaming at me at the

9 top of her lungs.

10 Now, did anybody report that

11 she's yelling at me, no. "They seem to

12 bump." She's three feet away from me.

13 I'm trying to get away from her. That's

14 what happened.

15 Q Mr. Tucci says you're moving

16 towards her.

17 A She was in front of me.

18 Where do you want me to go? How do I get

19 away from the woman?

20 Q So is Mr. Tucci telling the

21 truth here?

22 A I tried walking away from

23 this woman.

24 Q I understand, but that's not

25 the question. The question is is

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1 M.H. Capogrosso

2 Mr. Tucci telling the truth here?

3 A I don't recall touching this

4 woman at any point, at any point.

5 Q I understand that,

6 Mr. Capogrosso, but the question is is

7 Mr. Tucci lying in this statement?

8 A I don't know if he's lying

9 or not. Maybe that's what he thought he

10 saw. I don't remember hitting this or

11 touching this woman.

12 Q Is it possible that you did?

13 A I don't recall. I've never

14 hit or touched a woman like this in my

15 life, never. Bumping into somebody --

16 you're three feet away from me. Why are

17 you in my face? Why are you yelling and

18 screaming at me? How do I get away from

19 you at this point in time?

20 Q Is it possible you bumped

21 into her on purpose?

22 A Absolutely not. I would

23 never hit a woman in my life ever.

24 Q Mr. Tucci writes that "The

25 noise continued until our supervisor

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1 M.H. Capogrosso

2 Danielle Calvo intervened." Do you

3 remember what happened?

4 A She's yelling and screaming

5 at me in Russian, in Russian after I

6 admitted to her that I called the

7 District Attorney. She's yelling and

8 screaming in Russian at me. I don't know

9 what she was screaming.

10 Q So --

11 A And I like Russian women,

12 don't get me wrong, but I don't like a

13 Russian woman calling herself a lawyer

14 who's not. I didn't like that,

15 absolutely not.

16 Q Do you remember if --

17 A I did not bump into her.

18 Q So do you remember if your

19 bodies made contact at all?

20 A I've answered this. No, I

21 do not.

22 Q Okay. No, you don't

23 remember or no, it didn't happen?

24 A I would never -- I don't

25 recall bumping into this woman. No, I do

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1 M.H. Capogrosso

2 recall telling her to get away from me.

3 That's what I recall.

4 Q How big is Ms. Rabinovich?

5 A I don't recall. At that

6 point in time she was a nice 5'5" maybe.

7 Q And how tall are you,

8 Mr. Capogrosso?

9 A 5'10".

10 Q And are you a bigger guy,

11 are you a muscular guy?

12 A Oh, absolutely, I'm not

13 going to deny that. I work out every

14 day.

15 Q So you're, it's safe to say,

16 a lot more physically imposing than

17 Ms. Rabinovich was; is that correct?

18 A That's why I was trying to

19 move away from her. I'm 210. I'm 5'10",

20 210. That's why I'm trying to get away

21 from her.

22 Q All right.

23 A That's why I'm telling her

24 to get away from me.

25 Q Okay. Let's move on to the

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1 M.H. Capogrosso  
 2 next document. I'll stop the Screen  
 3 Share.  
 4 MR. THOMPSON: And, Madam  
 5 Court Reporter, that was Exhibit 4.  
 6 Q I'm going to share another  
 7 document here.  
 8 Mr. Capogrosso, can you see  
 9 this document?  
 10 A Yeah.  
 11 Q And what is this document?  
 12 Do you recognize it?  
 13 A Well, it's from Marisol. I  
 14 know Marisol.  
 15 Q And this document you  
 16 produced and Bates stamped P-84; correct?  
 17 A Yes.  
 18 Q And so what is this specific  
 19 document?  
 20 A I guess it's her complaint  
 21 about me that I was acting aggressively  
 22 toward her.  
 23 MR. THOMPSON: Okay.  
 24 Ms. MacDonald, can I ask you to  
 25 please mark this as Exhibit 5?

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1 M.H. Capogrosso  
 2 (The above-referred-to  
 3 statement was marked as Exhibit 5 for  
 4 identification as of this date.)  
 5 Q So, Mr. Capogrosso, who is  
 6 Marisol Cervoni?  
 7 A She's a clerk at the TVB,  
 8 Brooklyn TVB.  
 9 Q Did you have a good  
 10 relationship with her?  
 11 A She was a clerk. I just --  
 12 I went to the counter and she helped me  
 13 get the tickets for the day. She was a  
 14 clerk. I wasn't trying to have a  
 15 relationship with clerks. I wasn't  
 16 trying to have a relationship. I was  
 17 just trying to deal with her and to do my  
 18 job.  
 19 Q I understand,  
 20 Mr. Capogrosso, but the question was did  
 21 you have a good relationship with  
 22 Ms. Cervoni?  
 23 A I had a good relationship on  
 24 a business level with all the clerks. I  
 25 went up to the counter, I gave them my

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1 M.H. Capogrosso  
 2 tickets that I needed for the day. Can I  
 3 please have my tickets, thank you very  
 4 much. That's all I said or did.  
 5 Q Okay.  
 6 A I did what was required to  
 7 do.  
 8 Q So --  
 9 A Did I talk to her after work  
 10 or during work or have conversations with  
 11 her, no. I did my business at the  
 12 counter or when I put the ticket in the  
 13 courtroom. That was the extent of it.  
 14 Hello, here's my ticket, thank you.  
 15 Q So, Mr. Capogrosso,  
 16 Ms. Cervoni writes that on June 9, 2009  
 17 at approximately 9:45 a.m. she called a  
 18 customer to her counter. "The motorist  
 19 was accompany by Michael, who is the  
 20 assistant of Mr. Capogrosso who's one of  
 21 the lawyers who represents motorists at  
 22 their hearings at Brooklyn South."  
 23 Who is Michael?  
 24 A Well, at that point in time  
 25 we were allowed to have paralegals. He

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1 M.H. Capogrosso  
 2 would -- they were a lot of Russian  
 3 clients down there. He was a paralegal  
 4 that worked for me. He spoke Russian.  
 5 He translated -- he translated clients  
 6 who spoke Russian to English and helped  
 7 in the courtroom when we needed  
 8 translation.  
 9 Q And you --  
 10 A All the attorneys had a  
 11 paralegal at that point.  
 12 Q And did you employ him?  
 13 A He was paid as an  
 14 independent contractor.  
 15 Q About how much did you pay  
 16 him?  
 17 A I don't know. It varied.  
 18 It depends how many hours he put in.  
 19 Q How much did you pay him per  
 20 hour?  
 21 A I don't recall.  
 22 Q Do you have a ballpark  
 23 estimate?  
 24 A No. I don't recall. We  
 25 paid him -- we paid him on a daily basis.

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1 M.H. Capogrosso  
 2 I made sure he got paid every day for the  
 3 work he did.  
 4 Q And how long did you have an  
 5 assistant for --  
 6 A I don't recall.  
 7 Q -- or a paralegal?  
 8 A I don't recall how long.  
 9 You know, it must have been -- all the  
 10 other attorneys had them, so at some  
 11 point in time I was doing well, I said  
 12 let me take on and they all were using  
 13 them, so I did.  
 14 I don't recall the exact  
 15 amount of time. I know they were all  
 16 thrown out at one point in time because  
 17 there were accusations against them, so  
 18 they were thrown out of all the TVBs.  
 19 Q What --  
 20 A We weren't allowed to have  
 21 them anymore.  
 22 Q What were these accusations?  
 23 A I don't know exactly. As I  
 24 understand it, they were stealing,  
 25 stealing from motorists, stealing from

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1 M.H. Capogrosso  
 2 clients, stealing from lawyers, stealing  
 3 from each other.  
 4 Q Were there accusations  
 5 against Michael?  
 6 A No, no. Michael was a nice  
 7 guy, real nice guy.  
 8 Q And what was Michael's last  
 9 name?  
 10 A I don't remember, I really  
 11 don't, but he was a nice guy. He had a  
 12 brother --  
 13 Q Did you --  
 14 A His brother --  
 15 Q Did you ever --  
 16 A His brother worked for -- go  
 17 ahead.  
 18 Q Did you ever employ an  
 19 assistant other than Michael?  
 20 A His brother and I, when I  
 21 first came down, his brother was a  
 22 paralegal for Terry Horton. We became  
 23 friends. I forgot his name. Andy was  
 24 his brother.  
 25 But did I ever employ him,

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1 M.H. Capogrosso  
 2 no. He worked for -- Andy worked for  
 3 Eugene Gabase(phonetic).  
 4 Q So Michael is the only  
 5 assistant --  
 6 A Yes.  
 7 Q -- that you employed; is  
 8 that correct?  
 9 A As I recall, yes, but Andy  
 10 and I were friends.  
 11 Q All right. So in here, in  
 12 Exhibit 5 you see Ms. Cervoni writes that  
 13 the motorist handed her driver's license.  
 14 "And Michael called Mr. Capogrosso over  
 15 to my window. Mr. Capogrosso thinking  
 16 there was a problem approached my counter  
 17 and aggressively and belligerently began  
 18 yelling at me."  
 19 Do you recall this incident?  
 20 A I don't think I was  
 21 aggressive or belligerent. I might have  
 22 been loud. I do speak loudly. I want  
 23 people to hear me when I speak. I think  
 24 maybe she's a little oversensitive.  
 25 Maybe I was trying to understand what was

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1 M.H. Capogrosso  
 2 going on because I cared about my client  
 3 and what was going on and I actually give  
 4 a damn about my client and their  
 5 licenses.  
 6 So I was trying to get to  
 7 the heart of the matter, but I was not  
 8 belligerent or aggressive. Maybe I was  
 9 loud.  
 10 Q So do you recall this  
 11 specific incident?  
 12 A I recall Michael calling me  
 13 over, yeah. I never cursed or insulted  
 14 the woman, absolutely not, absolutely  
 15 not. She doesn't put down what curse or  
 16 insult I used. You make general  
 17 allegations --  
 18 Q Does she have to?  
 19 A Well, yeah. If you make an  
 20 accusation somebody is cursing or  
 21 insulting me, tell me what I said. Tell  
 22 me exactly. I might have been loud.  
 23 Listen, I am loud. I want people to hear  
 24 me when I speak. But tell me what word I  
 25 used to curse or what word I used to

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1 M.H. Capogrosso  
 2 insult. I'd like to know.  
 3 I don't curse or insult  
 4 women. It's not something I do.  
 5 Q Does it make her wrong if  
 6 she didn't list the curse word?  
 7 A Absolutely, because I want  
 8 to know what I'm being accused of. Don't  
 9 accuse somebody of something if you can't  
 10 stand behind it. Tell me what curse word  
 11 I used and what word I used to insult  
 12 you. I want to know that.  
 13 Q So you --  
 14 A Tell her that.  
 15 Q So you admit that you were  
 16 speaking with her, but you say you were  
 17 not belligerent --  
 18 A I wasn't --  
 19 Q -- is that correct?  
 20 A I wasn't belligerent. I was  
 21 speaking loudly as I'm speaking to you.  
 22 I speak in a loud voice. If she took it  
 23 wrongly, I'm sorry.  
 24 Q As you said, Mr. Capogrosso,  
 25 you're a big guy. You're an athletic

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1 M.H. Capogrosso  
 2 guy. Is it possible -- and when you  
 3 speak loudly to someone, particularly a  
 4 woman, isn't it possible that they are  
 5 going to view that as aggressive and  
 6 belligerent?  
 7 A I don't know how you view  
 8 it. I don't know how you view it. View  
 9 it anyway you like. I wasn't cursing. I  
 10 wasn't insulting. I might have been  
 11 loud. I might have been talking loudly  
 12 because I'm trying to get to the heart of  
 13 the matter and help my client out, but  
 14 how it's interpreted, I don't know.  
 15 Q So she writes that she  
 16 assured you there was no problem and that  
 17 she had already printed out the ticket  
 18 for your client, quote, "but at that  
 19 point he was already out of control and  
 20 continued yelling, cursing and insulting  
 21 me."  
 22 Is that true?  
 23 A No. I never cursed or  
 24 yelled or insulted, absolutely not.  
 25 Absolutely not.

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1 M.H. Capogrosso  
 2 Q So --  
 3 A Absolutely not.  
 4 Q So is Ms. Cervoni lying?  
 5 A Yes. When she says I'm  
 6 cursing and insulting and yelling, yes.  
 7 I might have been loud, but not cursing  
 8 and insulting.  
 9 She doesn't put --  
 10 Q Why would she --  
 11 A -- down what I said.  
 12 Q Why would she lie?  
 13 A I don't know.  
 14 Q What motivation would she  
 15 have to lie about you?  
 16 A Like I said, maybe I wasn't  
 17 giving her gifts and presents and money  
 18 like the other clerks were getting. The  
 19 other attorneys were giving these clerks  
 20 money for Christmas, buying them  
 21 breakfast.  
 22 Q Did --  
 23 A You got to let me finish.  
 24 Buying them breakfast in the  
 25 morning, giving them parties. One of the

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1 M.H. Capogrosso  
 2 attorneys says how much money are you  
 3 giving the clerks for Christmas? I was  
 4 not doing this. I was there to do a job,  
 5 that's it. I was not trying to --  
 6 Q So is --  
 7 A -- endear myself to the  
 8 clerks, I was not in any way. To me  
 9 there was an appearance of impropriety if  
 10 I tried to endear myself to these clerks  
 11 by giving them gifts or buying them  
 12 breakfast.  
 13 Q Did --  
 14 A You got to let me finish.  
 15 Buying them breakfast --  
 16 Q Sure.  
 17 A -- or giving them cash as  
 18 the other attorneys were doing. It was  
 19 an appearance. I didn't want to do it.  
 20 I just wanted to do my job.  
 21 Was I loud? I definitely  
 22 probably was loud, I'll admit to that.  
 23 Was I cursing and insulting, absolutely  
 24 not.  
 25 Q Mr. Capogrosso, is it your

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1 M.H. Capogrosso  
2 testimony that Ms. Cervoni made this up  
3 because you weren't giving money to the  
4 clerks?  
5 A She's not telling the truth  
6 there. I did not curse and I didn't  
7 insult. I don't know why. I'm a zealous  
8 advocator in this court, that's what I  
9 took an oath to do, zealously advocate.  
10 I took an oath when I got sworn in.  
11 That's what I do.  
12 I didn't curse at --  
13 Q Do you think Ms. Cervoni  
14 wanted to see you gone from the TVB?  
15 A I don't know. I don't know.  
16 I think we became friends afterwards. I  
17 think we became friends right before we  
18 left. That's why I wanted to depose her.  
19 I think she really liked me at one point  
20 in time. She's a very beautiful woman,  
21 Marisol and I think at one point -- she's  
22 a nice woman and I think at one point we  
23 became friends.  
24 But was I trying to endear  
25 myself to any of these clerks, no. I was

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1 M.H. Capogrosso  
2 trying to do my job. That's all I'm  
3 required to do.  
4 Q She writes that -- she  
5 writes that "The supervisors, Geri,  
6 Danielle and John all came out to see  
7 what the commotion was and to resolve the  
8 situation, but he" and I assume that  
9 means you "refused to listen to reason or  
10 leave my counter."  
11 Did you refuse to leave?  
12 A I don't recall, no, no.  
13 Maybe I -- well, wait a second, wait.  
14 Wait a second. Maybe I wanted the issue  
15 resolved and I wanted some explanation of  
16 the issue, which is my duty to do. I  
17 have a duty to my client, not to a clerk,  
18 but to my client to make sure the issue  
19 is resolved, whatever this issue was.  
20 Michael called me over,  
21 there was an issue. I have a duty to  
22 make sure that issue gets resolved as the  
23 attorney for the motorist, that's my job,  
24 make sure it's resolved, right? That's  
25 the job of the attorney here, right? I

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1 M.H. Capogrosso  
2 had the obligation, so let me resolve it.  
3 Let me speak to somebody else if there's  
4 an issue and one person can't solve it,  
5 you go to another person and maybe they  
6 can solve it.  
7 So, yeah, I had a duty to my  
8 client to resolve that issue, so maybe --  
9 Q So she writes --  
10 Mr. Capogrosso, she writes "Throughout  
11 the day Mr. Capogrosso was taunting me.  
12 He would walk past my station making  
13 comments and smirking at me." Is that  
14 true?  
15 A No. Taunt? Wait a second.  
16 How exactly did I taunt? Now you give me  
17 the exact words I used. That's a lie.  
18 Smirk? You know, when an  
19 issue is resolved with me, it's resolved.  
20 I don't hold on -- you know, I don't keep  
21 going back after it. I did not smirk. I  
22 don't know what smirking is.  
23 First of all, is there a  
24 problem with smirking? I think we have a  
25 Vice President now that smirks all the

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1 M.H. Capogrosso  
2 time. She enjoys smirking. That's my  
3 opinion.  
4 I don't see anything wrong  
5 with smirking, though I don't recall  
6 doing it. I don't even know what  
7 smirking is. Laughing?  
8 Q Smirking is a little smile.  
9 A All right. We got a Vice  
10 President that seems to do it all the  
11 time. It's all right for the Vice  
12 President.  
13 Q I'm not sure I understand  
14 what this has to do with the Vice  
15 President.  
16 A Well, I'm telling you we  
17 have a Vice President now, Kamala, who  
18 likes to smirk.  
19 I don't -- I don't know what  
20 smirking is. I have an issue, I resolve  
21 the issue, I move on. I'm not trying to  
22 have a beef with a clerk at a DMV. That  
23 is not my issue to have a beef or an  
24 argument with a clerk. I need these  
25 clerks to help me out.

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1 M.H. Capogrosso  
 2 Q If you don't know what  
 3 smirking is --  
 4 A I have -- I have no reason  
 5 to have an argument or an altercation  
 6 with a clerk, none, no reason.  
 7 Q Mr. Capogrosso, if you don't  
 8 know what smirking is, how do you know  
 9 the Vice President does it?  
 10 A Well, to me a smirk is when  
 11 you laugh sarcastically, right, that's a  
 12 smirk? That's what a smirk is, you laugh  
 13 sarcastically.  
 14 And once again I will  
 15 repeat, it does me no good to have any  
 16 type of issue with a clerk. I'm there to  
 17 do a job. I smirk? Now I smirk? I mean  
 18 I don't believe I'm being accused of  
 19 smirking.  
 20 Q I will tell you,  
 21 Mr. Capogrosso, this is not the first  
 22 complaint that we'll see today where  
 23 someone indicates that you kept coming by  
 24 and smiling at them and sort of taunting  
 25 them throughout the day.

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1 M.H. Capogrosso  
 2 A Well, you can --  
 3 Q Do you have any response to  
 4 that?  
 5 A Well, you can make any  
 6 complaint you like, it doesn't mean it's  
 7 true and I have no reason, no reason to  
 8 have any beef, any complaints with a  
 9 clerk and clerks at this office that I  
 10 need. Now, I was given no opportunity to  
 11 respond to this, none at the time, none.  
 12 Q Mr. Capogrosso she writes "I  
 13 can no longer interact with  
 14 Mr. Capogrosso at the service counter  
 15 because I fear for my safety. On many  
 16 occasions I've observed him display his  
 17 aggressive behavior toward my coworkers,  
 18 his clients, the other attorneys and  
 19 their assistants."  
 20 She feared for her safety,  
 21 what does that mean to you?  
 22 A I don't know. I treated her  
 23 nicely and respectfully. Nicely and  
 24 respectfully I treated this woman. I  
 25 never threatened her or harmed her.

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1 M.H. Capogrosso  
 2 I mean you can have any  
 3 perception you like of somebody. You can  
 4 have any perception you like. It doesn't  
 5 mean that that's what I am.  
 6 Q Were you aware --  
 7 A I was a zealous advocator,  
 8 but --  
 9 Q Mr. Capogrosso, were you --  
 10 A Let me finish.  
 11 Q Sure.  
 12 A Well, let me finish. What  
 13 reason did she fear? What exactly did I  
 14 do? See, I want to know the specifics.  
 15 I don't want to know the allegations.  
 16 Tell me exactly why you felt fearful.  
 17 And let me tell you  
 18 something, you tell me once, you never  
 19 have to tell me twice. Tell me exactly  
 20 what --  
 21 Q Mr. Capogrosso --  
 22 A -- I did. I'd like to know.  
 23 Q Well, it seems here you  
 24 yelled at her and cursed at her and  
 25 wouldn't leave when she asked you to.

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1 M.H. Capogrosso  
 2 A Well, I didn't yell and I  
 3 didn't curse, I didn't insult. No words  
 4 are shown, no words. What words were  
 5 spoken?  
 6 Now what I did --  
 7 Q Mr. Capogrosso --  
 8 A -- do, maybe I was loud, but  
 9 I did not yell and I did not curse. I  
 10 did not curse and I did not insult and  
 11 for what reason she's fearful I do not  
 12 know. I didn't schmooze with her in the  
 13 morning and ask her how's she doing and  
 14 is she okay and how is your weekend and  
 15 how's all this. I didn't talk about all  
 16 that stuff. I was there to do a job.  
 17 Q Mr. Capogrosso, were you  
 18 aware that there were people at the TVB  
 19 who were afraid of you?  
 20 A No.  
 21 Q No?  
 22 A None of these complaints  
 23 were ever brought to me. You tell me  
 24 once, you don't have to tell me twice.  
 25 Q That's not the question

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1 M.H. Capogrosso  
 2 though. The question is were you aware  
 3 that there were people who were afraid of  
 4 you?  
 5 A No. Tell me who. I was  
 6 never put on notice. You tell me once,  
 7 you never have to tell me twice.  
 8 Q Did anyone around you seem  
 9 afraid of you?  
 10 A Seem afraid? I don't know  
 11 how other people feel. I know I have a  
 12 very strong presence, I understand that.  
 13 I've been told that I have a certain  
 14 strong presence and maybe it's because a  
 15 lot of things I've done in my life, but I  
 16 do have a strong presence.  
 17 Q If --  
 18 A I've been told that.  
 19 Q If someone was afraid of  
 20 you, would you care?  
 21 A I would try to rectify it.  
 22 I would do everything I could in my  
 23 ability to rectify it. But was I trying  
 24 to endear myself to these clerks, no. I  
 25 was trying to do a job.

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1 M.H. Capogrosso  
 2 Q Were you aware that  
 3 Ms. Cervoni had filed a complaint?  
 4 A No, no, absolutely not.  
 5 Like I said, if she had brought this to  
 6 my attention I would have rectified it  
 7 immediately. If anybody brought this to  
 8 my attention, I would have rectified it  
 9 immediately.  
 10 Q She writes that you  
 11 assaulted a female assistant who works  
 12 for another lawyer. Is she referring to  
 13 Ms. Rabinovich?  
 14 A Yeah. That was not an  
 15 assault. That's a lie. There was no  
 16 assault. There was no assault. I would  
 17 have been arrested if there's an assault.  
 18 That's an absolute lie. Your words are  
 19 very important here. You can't make  
 20 accusations against somebody that aren't  
 21 true.  
 22 Q So why is Ms. Cervoni lying?  
 23 A Why? I don't know. There  
 24 was no assault.  
 25 Q Why would --

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1 M.H. Capogrosso  
 2 A Was I arrested for assault?  
 3 Q Why would she lie?  
 4 A Well, maybe she liked Tanya  
 5 and she didn't like me. Maybe she liked  
 6 Tanya and she didn't like me. I didn't  
 7 schmooze with these law -- with these  
 8 clerks. I wasn't there in the morning  
 9 saying how was your day. I wasn't there  
 10 saying how was your weekend. I wasn't  
 11 there saying what do you want to do for  
 12 lunch today.  
 13 Q Well, she's --  
 14 A I wasn't doing that.  
 15 Q -- not saying that you're  
 16 not saying, you know, asking her how  
 17 she's doing, schmoozing her in the  
 18 mornings. She's saying that you're  
 19 physically scaring her.  
 20 A How did I physically scare  
 21 her? Tell me the specifics.  
 22 Q You --  
 23 A Tell me what I did.  
 24 Q -- yelled at her and cursed  
 25 at her and you wouldn't leave when she

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1 M.H. Capogrosso  
 2 said to leave.  
 3 A I didn't curse. I might  
 4 have been loud. I didn't curse.  
 5 Q She says she had to go to  
 6 the back office to get away from you.  
 7 A Well, that was her decision.  
 8 My duty is to my client. If a supervisor  
 9 comes out, I'm trying to resolve the  
 10 issue, I'm going to talk to the  
 11 supervisor.  
 12 Q Do you remember her leaving  
 13 to get away from you?  
 14 A No.  
 15 Q She writes "His aggressive  
 16 behavior has steadily progressed within  
 17 the past few months. I no longer feel  
 18 comfortable at my place of employment  
 19 because of this individual's behavior and  
 20 I wish to go on record in the event of  
 21 any future conflicts."  
 22 A Well --  
 23 Q Had your aggressive behavior  
 24 been progressing?  
 25 A I don't know what she means

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1 M.H. Capogrosso  
 2 by aggressive behavior. Tell me what I  
 3 did.  
 4 Q Well, were you aware at this  
 5 point that there have been multiple  
 6 incidents where people claimed that you  
 7 had been aggressive?  
 8 A No, no, no. I --  
 9 Q You had no idea that anyone  
 10 complained about the incident with  
 11 Ms. Rabinovich?  
 12 A No, no. You tell me -- I've  
 13 never seen these complaints. If Judge  
 14 Gelbstein was doing his job or his  
 15 clerical supervisor was doing their job,  
 16 they would have brought this complaint to  
 17 my attention and I would have resolved  
 18 it. You tell me once, you don't have to  
 19 tell me twice.  
 20 Q So --  
 21 A You have to let me finish.  
 22 You tell me once, you never have to tell  
 23 me twice. You have to let me finish.  
 24 Q So --  
 25 A Let me finish.

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1 M.H. Capogrosso  
 2 Q Sure.  
 3 A This was never brought to my  
 4 attention so I could resolve it. I'm  
 5 there working on a daily basis. I have  
 6 no reason to have any altercations with  
 7 anybody. I was there to zealously  
 8 advocate on behalf of my clients.  
 9 You tell me what the  
 10 aggressive behavior is and I will resolve  
 11 it, but don't accuse me of something --  
 12 Q So --  
 13 A You got to let me finish.  
 14 Q Sure.  
 15 A -- and leave out the details  
 16 of what the aggressive behavior was, then  
 17 don't show me this affidavit ever or  
 18 bring it to my attention so I can resolve  
 19 it. That's not being fair.  
 20 Q So Mr. Capogrosso --  
 21 A You've got to let me finish.  
 22 Q I do need to ask another  
 23 question.  
 24 A You have to let me finish.  
 25 I'm not finished.

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1 M.H. Capogrosso  
 2 That is not being fair to  
 3 me. You have to let me finish. You're  
 4 not being fair to me if you make an  
 5 accusation and you don't let me address  
 6 it and resolve it, you're not being fair  
 7 to me.  
 8 Q All right.  
 9 A You have let me finish.  
 10 Q Mr. Capogrosso, let's move  
 11 on to the next question.  
 12 A I want to finish.  
 13 Q Respectfully --  
 14 A You're not --  
 15 Q -- we are going to move on  
 16 to the next question.  
 17 A You're not being fair to me  
 18 if you don't let me address that issue.  
 19 Q Mr. Capogrosso, you've been  
 20 addressing the issue. We have other  
 21 questions that we need to get to, the  
 22 first of which is yesterday at his  
 23 deposition, Judge Gelbstein testified  
 24 that when he received a complaint about  
 25 you, he would take you into his office

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1 M.H. Capogrosso  
 2 and speak with you verbally about it.  
 3 Did he do that in this  
 4 case --  
 5 A No, he did not.  
 6 Q -- with the complaints?  
 7 A No.  
 8 Q Do you remember him ever  
 9 taking you to his office to discuss  
 10 complaints about you and about aggressive  
 11 behavior?  
 12 A Absolutely not. Now --  
 13 Q Not once?  
 14 A You have to let me finish.  
 15 Q Sure.  
 16 A All these complaints, Judge  
 17 Gelbstein never presented to me one of  
 18 these complaints, not one, because I  
 19 would have filed --  
 20 Q Mr. Capogrosso --  
 21 A You have to let me finish.  
 22 Mr. Thompson, you've got to let me  
 23 finish.  
 24 Q Well, let me clarify the  
 25 question.

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1 M.H. Capogrosso  
 2 MS. REPORTER: Wait, time  
 3 out. I'm going off the record right  
 4 now.  
 5 Q Mr. Capogrosso --  
 6 MS. REPORTER: Time out.  
 7 I'm stopping. I'm not even writing  
 8 this.  
 9 MR. THOMPSON: Let's go off  
 10 the record.  
 11 MS. REPORTER: Off the  
 12 record, please, off the record. We  
 13 are having an issue.  
 14 MR. THOMPSON: Off the  
 15 record, please.  
 16 MR. VIDEOGRAPHER: The time  
 17 is 12:40. We are off the record.  
 18 (A short recess was taken.)  
 19 MR. VIDEOGRAPHER: The time  
 20 is 12:45. We are on the record.  
 21 Q So, Mr. Capogrosso, as I  
 22 mentioned, yesterday at his deposition  
 23 Judge Gelbstein testified that when he  
 24 received a complaint about you, he would  
 25 take you into his office and tell you

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1 M.H. Capogrosso  
 2 verbally the substance of that complaint.  
 3 Do you remember him  
 4 testifying to that?  
 5 A He testified to it.  
 6 Q Did that happen in this  
 7 case, in the case of Ms. Cervoni's  
 8 complaint?  
 9 A Not to me, no, never.  
 10 Q Do you remember him ever  
 11 having a verbal conversation with you  
 12 about complaints that had been made about  
 13 you?  
 14 A No, nothing, no because he  
 15 never gave me any complaint to respond  
 16 to. I would have responded.  
 17 Q And let me clarify the  
 18 question. I'm not asking whether he gave  
 19 you the physical hard copy complaint.  
 20 I'm asking whether he verbally told you  
 21 about complaints that had been made about  
 22 you?  
 23 A No. You tell me once --  
 24 Q He never did that?  
 25 A No. You tell me once, you

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1 M.H. Capogrosso  
 2 don't have to tell me twice.  
 3 Q So was Mr. Gelbstein lying  
 4 when he said that he spoke with you  
 5 verbally about complaints?  
 6 A Yes. I've never -- he never  
 7 gave me a specific of any complaint that  
 8 I could respond to, never the specific of  
 9 any complaint that I could respond to and  
 10 resolve.  
 11 Q Did he ever tell you that  
 12 there had been complaints without giving  
 13 you the specifics?  
 14 A No. Give me the specific  
 15 complaint. No. Tell me what it is and I  
 16 will respond and resolve it.  
 17 Q So were you aware that there  
 18 had ever been any complaint made about  
 19 you by any person?  
 20 A No, no. I saw no  
 21 complaints. People didn't like me, I  
 22 understand that, but I saw no complaints  
 23 from anyone that I could respond to and  
 24 resolve because --  
 25 Q And --

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1 M.H. Capogrosso  
 2 A -- I'm the first one to  
 3 attempt to resolve it.  
 4 Q And Mr. Capogrosso I want to  
 5 make this question very clear, I'm not  
 6 asking whether you saw a physical hard  
 7 copy paper complaint. I'm asking you  
 8 were you ever aware that anyone had ever  
 9 made a complaint about your conduct?  
 10 A No.  
 11 Q Let's move on to a new  
 12 document. I'll close out of that one.  
 13 MR. THOMPSON: I'm not sure  
 14 if we marked that one, Ms. MacDonald,  
 15 but let's mark that Exhibit 5 if we  
 16 haven't already, the previous one.  
 17 Q Mr. Capogrosso, can you see  
 18 this document?  
 19 A Yes.  
 20 Q Do you recognize this  
 21 document?  
 22 A Yeah. I recognize the top  
 23 portion of it, but I'm sure it's --  
 24 Q And you see this document  
 25 was produced by you and marked P-86;

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1 M.H. Capogrosso  
2 correct?  
3 A Yes.  
4 Q What is this document?  
5 A I don't know. It's a  
6 complaint from Diantha Fuller I guess.  
7 MR. THOMPSON: Can I, Madam  
8 Court Reporter, can I ask you to mark  
9 this as Exhibit 6?  
10 (The above-referred-to  
11 statement was marked as Exhibit 6 for  
12 identification as of this date.)  
13 Q Mr. Capogrosso, my first  
14 question is these redactions up at the  
15 top, did you add these?  
16 A No.  
17 Q Where are they from?  
18 A Where are they from? I  
19 don't know where they're from. I know  
20 you submitted it to my office and then I  
21 returned it.  
22 Q Because to my knowledge,  
23 these were not redacted --  
24 A Oh.  
25 Q -- when we submitted them.

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1 M.H. Capogrosso  
2 A I'll tell you where I got  
3 this. I got this redacted like this in  
4 a motion -- in your motion to dismiss,  
5 this was attached redacted. You filed  
6 these affidavits. The first time I'm  
7 seeing these affidavits is in your motion  
8 to dismiss to me and they were redacted  
9 in that manner. That's where I got it.  
10 Q Okay. So who is Diantha L.  
11 Fuller?  
12 A She's a lawyer that worked  
13 down there.  
14 Q And do you have a good  
15 relationship with Ms. Fuller?  
16 A No. Diantha did not like  
17 me. Diantha did not like me. She did  
18 not like me at all.  
19 Q Why not?  
20 A I don't know. She just  
21 didn't like me. I didn't talk to her. I  
22 didn't socialize with her. I didn't like  
23 the type of attorney she was.  
24 Q What type of attorney was  
25 she?

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1 M.H. Capogrosso  
2 A Well, she just pretty much  
3 pleaded you guilty. She went into the  
4 courtroom, took a case, postponed it and  
5 she just entered a guilty plea. She  
6 didn't really argue for her clients and I  
7 felt that was terrible.  
8 She's used to solicit  
9 attorneys -- solicit clients all the  
10 time, solicit clients all the time.  
11 She'd walk up to a client in the morning,  
12 hand them his bus -- her business card  
13 and says here, I'm a lawyer. I thought  
14 it was terrible. Judge Gelbstein allowed  
15 it.  
16 So I didn't like her as an  
17 attorney whatsoever. It was terrible  
18 what she was doing. There's signs all  
19 around that say you shouldn't solicit and  
20 she was soliciting everybody.  
21 Q So Ms. Fuller writes "As  
22 requested by your staff, below is Agnes  
23 Paez's report of the events that  
24 transpired on 7/31/09 in the Coney Island  
25 Traffic Bureaus, which I took directly

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1 M.H. Capogrosso  
2 from an e-mail she submitted to me."  
3 Do you know who Agnes Paez  
4 is?  
5 A Yes. She was a paralegal  
6 down there.  
7 Q And who did she work for?  
8 A Well, actually I do remember  
9 her now. Now actually this lady did work  
10 for me for a while before Michael came on  
11 and then went to work -- she did, she  
12 worked as a translator. She spoke  
13 Spanish. She did work for a couple of  
14 months I think. I don't know exactly how  
15 long, but for a couple of months with me  
16 down there. She was a translator.  
17 And I didn't like what she  
18 was doing, so I let her go and I brought  
19 Michael in instead.  
20 Q And was this time that she  
21 worked with you before or after July 31,  
22 2009?  
23 A It was before. Before then,  
24 before then.  
25 Q And you said you fired

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1 M.H. Capogrosso  
 2 Ms. Paez; is that true?  
 3 A I told her -- well, she  
 4 went -- I said we are not going to work  
 5 anymore together. I didn't like what she  
 6 was doing.  
 7 Q What was she doing that you  
 8 didn't like?  
 9 A She was soliciting,  
 10 soliciting motorists in the parking lot  
 11 and they was walking in. It was  
 12 embarrassing. She was hungry for money  
 13 this woman. She was walking -- she  
 14 was -- and the other attorneys were  
 15 complaining, too. She was in the parking  
 16 lot as motorists were walking in in the  
 17 morning, she was handing out business  
 18 cards. I said you can't do that, you're  
 19 a translator.  
 20 She was soliciting motorists  
 21 as they were walking in the building. I  
 22 said it's terrible.  
 23 Q Was she soliciting -- I  
 24 apologize. Keep going.  
 25 A Yeah. It was terrible what

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1 M.H. Capogrosso  
 2 she was doing. I said I'm not having  
 3 this.  
 4 Q Was she soliciting these  
 5 motorists on your behalf to work for you?  
 6 A Well, it seemed like that  
 7 and as soon as I saw that happen, I said  
 8 that's it, no more, no more. You're not  
 9 supposed to solicit. You don't walk up  
 10 to clients. You're here as a translator.  
 11 Now she was doing it for  
 12 Diantha and Diantha didn't seem to have  
 13 any problem with it, which is the other  
 14 reason I didn't like Diantha because  
 15 Diantha was soliciting and Agnes was  
 16 soliciting. I said you girls do what you  
 17 want. I'm not going to engage in that.  
 18 Q So Ms. Paez writes that she  
 19 was speaking with a client on behalf of  
 20 Ms. Fuller when she was approached by  
 21 you. You then "stood in front of me and  
 22 told Ms. Fuller's client that I was not a  
 23 lawyer and he should not be speaking to  
 24 me. He then handed my client his  
 25 business card."

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1 M.H. Capogrosso  
 2 Is that true?  
 3 A No. That's not true. I  
 4 don't think I ever would have interrupted  
 5 another person in a conversation, that's  
 6 not what I do, absolutely not.  
 7 Q And she says the client did,  
 8 in fact, know that Ms. Paez was not an  
 9 attorney and was shocked at your  
 10 behavior.  
 11 She writes "Mr. Capogrosso  
 12 then turned to me and called me a variety  
 13 of vulgar and profane names and  
 14 threatened me with violence to stay away  
 15 from the Department of Motor Vehicles."  
 16 Is that true?  
 17 A No. It's absolutely a lie.  
 18 I would have been arrested for that,  
 19 Counselor. I would have been -- a police  
 20 report would have been filed and I would  
 21 have been arrested, arrested if that's  
 22 true.  
 23 Now you can say --  
 24 Q Do you remember --  
 25 A -- what you like. I would

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1 M.H. Capogrosso  
 2 have been arrested.  
 3 Q Do you remember this  
 4 incident?  
 5 A No, I absolutely do not. I  
 6 know I didn't like what she was doing  
 7 down there. Judge Gelbstein condoned it.  
 8 There's nothing I could do about it. But  
 9 did I ever approach her, absolutely not.  
 10 There was no reason for me to. I had  
 11 plenty.  
 12 Q Why would -- why would  
 13 Ms. Paez lie?  
 14 A I don't know. Diantha  
 15 didn't like me. I saw what she was doing  
 16 soliciting. I let her go. I didn't want  
 17 to work with her anymore.  
 18 Q So you don't know why she  
 19 would lie?  
 20 A I don't know. What she's  
 21 saying here is not the truth. I have no  
 22 reason to interfere between two people.  
 23 I had no reason to interfere. I had  
 24 plenty of clients down there. My clients  
 25 liked me.

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1 M.H. Capogrosso  
 2 Q So, Mr. Capogrosso, you're  
 3 telling us that a lot of people are  
 4 telling the same lie about you, that  
 5 they're all lying the same way, they're  
 6 all saying that you yelled and screamed  
 7 and cursed at them. Why would they all  
 8 tell the same lie?  
 9 A I have no idea. I'm  
 10 responding to each affidavit in kind, all  
 11 right. I'm responding to this affidavit  
 12 in kind. Let's just stick to this one.  
 13 Let's be very specific, not general. If  
 14 there's affidavits written against me, I  
 15 will address them.  
 16 Now, this affidavit --  
 17 Q Well, I think it's --  
 18 A Go ahead.  
 19 Q I'm sorry, Mr. Capogrosso,  
 20 sometimes when you speak you pause and I  
 21 think you're done with your response and  
 22 then I speak up.  
 23 A This affidavit states  
 24 generalizations, nothing specific. It  
 25 states in a violent manner. What exactly

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1 M.H. Capogrosso  
 2 did I do? Towering over me, what exactly  
 3 did I do? Threatening, what exactly did  
 4 I do to threaten? Frighten, what did I  
 5 do to frighten? You tell me. I used  
 6 vulgar and profane names. Tell me the  
 7 names I used. Tell me exactly what I did  
 8 to threaten.  
 9 Now you might feel that,  
 10 that might be your perception, but tell  
 11 me the specifics that I actually did and  
 12 there are none listed here.  
 13 Q Well, she says that you  
 14 turned to her and you tried to get her to  
 15 stop speaking to somebody, you called her  
 16 a variety of vulgar and profane names and  
 17 you threatened her with violence. I mean  
 18 that may not be specific enough for you,  
 19 but it's pretty specific.  
 20 A Well, how exactly did I  
 21 threaten? What did I say, I'm going to  
 22 hit you? What did I say?  
 23 Q Does it matter what you  
 24 said?  
 25 A It does.

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1 M.H. Capogrosso  
 2 Q I mean if --  
 3 A It's your allegations.  
 4 Well, tell me what I said. Tell me  
 5 exactly what was said. Give me an  
 6 opportunity to respond.  
 7 Q She's characterizing your  
 8 speech. She said you said vulgar and  
 9 profane names and threatened her with  
 10 violence.  
 11 A Well, first of all I did. I  
 12 would never talk to a woman like that,  
 13 but I want to know exactly what was said.  
 14 Tell me what was said. You can make --  
 15 you know, I can write affidavits about  
 16 everybody down there. I can say the same  
 17 thing about somebody.  
 18 You can't make these blatant  
 19 accusations about people and don't give  
 20 the specifics. Exactly what was said?  
 21 If I threatened somebody with violence, I  
 22 would have been arrested.  
 23 Q She writes "Finally  
 24 Mr. Capogrosso told me to stay away from  
 25 him in a very violent manner, towering

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1 M.H. Capogrosso  
 2 over me and spoke so loudly and in a  
 3 threatening manner that a plain clothes  
 4 policeman standing next to me asked if he  
 5 needed to get involved."  
 6 Do you -- does that refresh  
 7 your recollection at all?  
 8 A No. I was never arrested  
 9 for anything. I did nothing wrong.  
 10 Obviously the cop understood that.  
 11 Q You know that you're a big  
 12 and intimidating guy. Do you ever get in  
 13 someone's personal space because you know  
 14 that --  
 15 A Absolutely not, no.  
 16 Q What did --  
 17 A I avoid situations. I don't  
 18 want a situation. I avoid if -- I  
 19 absolutely avoid. Will I confront when  
 20 necessary, yes. When it's on behalf of  
 21 my client, yes.  
 22 But if you're going to tell  
 23 me I threatened you, you better tell me  
 24 exactly what I said to threaten you. I  
 25 would never threaten a woman number one.

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1 M.H. Capogrosso  
 2 Q Well, a number of people  
 3 have asserted that you did and we'll see  
 4 a couple more throughout the course of  
 5 the day.  
 6 A Well, let's go through them  
 7 one at a time.  
 8 Q All right. She writes  
 9 again, "I was especially nervous because  
 10 I am six months pregnant and I was in  
 11 fear his outbursts would turn violent."  
 12 A Well, you --  
 13 Q Do you have any response to  
 14 that?  
 15 A You might have any  
 16 perception you want. I don't recall  
 17 having any altercation with this woman,  
 18 other than telling her I didn't want her  
 19 working for me anymore and as she was  
 20 soliciting motorists in the parking lot  
 21 and soliciting motorists on the DMV floor  
 22 and Diantha Fuller was condoning all  
 23 these actions.  
 24 Q So is Ms. Fuller lying here?  
 25 A About what? What's

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1 M.H. Capogrosso  
 2 Ms. Fuller's statements?  
 3 Q Well, she's passing along  
 4 this statement from her paralegal.  
 5 A Well, Ms. Fuller did not  
 6 observe it now, did she, so I don't know  
 7 what Ms. Fuller is observing.  
 8 Q But Ms. Paez is lying, is  
 9 that your testimony?  
 10 A I did not threaten a woman.  
 11 I would never threaten a woman in my  
 12 life.  
 13 Q So yes, she's lying?  
 14 A Yes, yes, absolutely lying.  
 15 Q And you have no -- and you  
 16 have no sense of why she would lie; is  
 17 that correct?  
 18 A I don't think you need a --  
 19 I don't know why. We are all  
 20 competitive. We are all going after the  
 21 same summonses down there. All going  
 22 over the same summonses. Did the woman  
 23 like me, no.  
 24 Q So you think that's why  
 25 she's lying?

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1 M.H. Capogrosso  
 2 A I don't know why she's  
 3 lying, I have no idea, but what's -- if  
 4 you're going to accuse me of threatening  
 5 you, tell me the words I used or have me  
 6 arrested, but don't threaten -- don't say  
 7 something like that --  
 8 Q All right.  
 9 A -- ruin my reputation and my  
 10 name and don't give me the specifics of  
 11 exactly what I did.  
 12 Q So let's move on to the next  
 13 exhibit.  
 14 MR. THOMPSON: And,  
 15 Ms. MacDonald, I can't recall whether  
 16 we had that marked, but that previous  
 17 exhibit, let's have that marked as  
 18 Exhibit 6 if hasn't been already.  
 19 Q Mr. Capogrosso, can you see  
 20 the exhibit?  
 21 A Ah, yes, all the clerks  
 22 don't like me. They're signing their  
 23 names, yes, yes.  
 24 Q So do you recognize this  
 25 document?

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1 M.H. Capogrosso  
 2 A Yes, absolutely.  
 3 Q And what is this document?  
 4 A This is a complaint. This  
 5 was something --  
 6 Q What is this document?  
 7 A I have no idea. Something  
 8 that all the clerks signed that Bushra  
 9 Vahdat had them sign.  
 10 Q And this document was  
 11 produced by us and it's Bates stamped DMV  
 12 lots of zeros 244; correct?  
 13 A Yeah. Yes. The clerks  
 14 didn't like me, I know that.  
 15 Q You see that down in the  
 16 lower right?  
 17 A Yeah. The clerks didn't  
 18 like me. I know that.  
 19 Q And so, Mr. Capogrosso,  
 20 what's this document?  
 21 A I don't know. This is an  
 22 affidavit by all the clerks.  
 23 Q It's not an affidavit. I  
 24 don't think there's a notarization or  
 25 anything.

<p style="text-align: right;">Page 210</p> <p>1 M.H. Capogrosso</p> <p>2 A I don't know what it is.</p> <p>3 It's a bunch of signatures.</p> <p>4 Q Either way --</p> <p>5 A It's a bunch of signatures</p> <p>6 by people at the DMV.</p> <p>7 MR. THOMPSON: Ms.</p> <p>8 MacDonald, can we have this marked as</p> <p>9 Exhibit 7?</p> <p>10 (The above-referred-to</p> <p>11 statement along with signatures was</p> <p>12 marked as Exhibit 7 for</p> <p>13 identification as of this date.)</p> <p>14 Q And so the people who signed</p> <p>15 this document, right, "We the undersigned</p> <p>16 clerks, supervisors and judges of the</p> <p>17 Brooklyn South Traffic Violations Bureau</p> <p>18 state that we feel the presence of</p> <p>19 attorney Mario Capogrosso on our premises</p> <p>20 constitutes a threat to our physical</p> <p>21 safety."</p> <p>22 Why would they think that,</p> <p>23 Mr. Capogrosso?</p> <p>24 A I have no idea. Tell me the</p> <p>25 specifics. I have no idea. You can't</p>	<p style="text-align: right;">Page 212</p> <p>1 M.H. Capogrosso</p> <p>2 absolutely. How you perceive me, that's</p> <p>3 up to you. What did I actually do is a</p> <p>4 different situation. You can perceive me</p> <p>5 in any manner you like. What did I</p> <p>6 actually do?</p> <p>7 Q What do you mean by strong</p> <p>8 presence?</p> <p>9 A I do have a strong presence.</p> <p>10 I've been told that. I'm not --</p> <p>11 Q What do you mean by the term</p> <p>12 strong presence?</p> <p>13 A Well, I'm not afraid to</p> <p>14 speak my mind. I'm not afraid to</p> <p>15 confront. I'm not afraid to confront,</p> <p>16 that's what lawyers do. I'm -- I -- I</p> <p>17 state the truth, I get right to the issue</p> <p>18 and I try to resolve it. That's who I am</p> <p>19 as a person, as a man, as an attorney,</p> <p>20 that's who I am.</p> <p>21 If you perceive -- if you</p> <p>22 have a perception of me that you feel,</p> <p>23 tell me what I did. Give me an</p> <p>24 opportunity to resolve it. Give me the</p> <p>25 opportunity to resolve it. Don't just</p>
<p style="text-align: right;">Page 211</p> <p>1 M.H. Capogrosso</p> <p>2 make allegations against a man and his</p> <p>3 reputation if you don't give me the</p> <p>4 specifics that occurred and give me an</p> <p>5 opportunity to respond and resolve it.</p> <p>6 Let me know what I did.</p> <p>7 Q Did people --</p> <p>8 A I'd like to know.</p> <p>9 Q Did people view you as a</p> <p>10 threat to their physical safety?</p> <p>11 A I don't know. I have no</p> <p>12 idea, none. I can't answer that. They</p> <p>13 might have. They --</p> <p>14 Q Did --</p> <p>15 A They might have.</p> <p>16 Q Were they right to view you?</p> <p>17 A I don't know. I am -- you</p> <p>18 know, I was dealing with a lot of tough</p> <p>19 guys down there, a lot of tough</p> <p>20 motorists. There are tough guys down</p> <p>21 there in Brooklyn, they are. I'm dealing</p> <p>22 with a lot of tough guys.</p> <p>23 And do I have a strong</p> <p>24 presence, absolutely, I admit that. Do I</p> <p>25 come across with a strong presence,</p>	<p style="text-align: right;">Page 213</p> <p>1 M.H. Capogrosso</p> <p>2 make blatant accusations against a man.</p> <p>3 Q When you say strong</p> <p>4 presence, do you mean strong physical</p> <p>5 presence?</p> <p>6 A I have a strong physical</p> <p>7 presence, a strong persona. People say</p> <p>8 that when I walk in the room, they feel</p> <p>9 me or they sense me. I don't know why,</p> <p>10 they do. They -- I've been told this. I</p> <p>11 don't know why.</p> <p>12 I'm trying to figure out why</p> <p>13 they feel intimidated by me. I don't</p> <p>14 know why. But if they do, give me an</p> <p>15 opportunity to resolve it.</p> <p>16 Q But you knew that some</p> <p>17 people felt intimidated by --</p> <p>18 A No, I did not.</p> <p>19 Q -- you; is that correct?</p> <p>20 A I did not. I did not. I</p> <p>21 speak to everybody the same. I speak to</p> <p>22 everybody the same. If you feel that</p> <p>23 type -- if you feel that, give me an</p> <p>24 opportunity to resolve it. Give me an</p> <p>25 opportunity.</p>

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1 M.H. Capogrosso  
2 Q But were you aware that  
3 people were intimidated by your strong  
4 physical presence?  
5 A No, no. Absolutely not.  
6 I'm sorry if -- I'm sorry if I have a  
7 strong physical presence. I'm sorry.  
8 You're allowed to have a strong physical  
9 presence. You're allowed. You're  
10 allowed.  
11 Q So Mr. Capogrosso --  
12 A You have to let me finish.  
13 I can't help that. You're allowed to  
14 have that.  
15 Q So Mr. Capogrosso, they  
16 write "We believe that Mr. Capogrosso's  
17 behavior is unstable and hereby state  
18 that he has gotten into confrontations  
19 with many of us in the past years" and  
20 you'll see some of the names on this list  
21 like Marisol Cervoni are the list of  
22 people who have filed complaints or  
23 otherwise indicated that they had  
24 confrontations with you.  
25 A Well, they --

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1 M.H. Capogrosso  
2 Q They write "These  
3 confrontations have been escalating to  
4 the point where a physical confrontation  
5 has nearly ensued between him and a  
6 Brooklyn South employee on January 5,  
7 2011 after the close of business."  
8 Do you know what they're  
9 referring to?  
10 A Absolutely. I remember  
11 that. Absolutely.  
12 Q And what incident are they  
13 referring to?  
14 A I'm going to the counter on  
15 a ticket. There's George and then  
16 there's Cindy. Cindy is George's  
17 girlfriend, I didn't realize this, but  
18 she's a nice lady. I was talking to  
19 Cindy. I actually thought Cindy was a  
20 very pretty woman. I was taking to  
21 Cindy. George is getting upset I guess.  
22 I didn't realize they were dating. I had  
23 no idea.  
24 He starts yelling and  
25 screaming at me. I said that's enough,

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1 M.H. Capogrosso  
2 I'll talk to you about it later and  
3 that's it. But now I'm not allowed to  
4 talk to a clerk. I didn't know that  
5 Cindy and George were dating and now I'm  
6 not allowed to talk to Cindy. So I was  
7 talking to Cindy. George got upset. He  
8 starts yelling and screaming at me. I  
9 said I'll talk to you about it later if  
10 you want to talk and I said the word  
11 talk. I didn't threaten anybody. I said  
12 the word talk.  
13 Q Who told you that you  
14 weren't allowed to talk to someone?  
15 A George was getting upset.  
16 George was getting upset. I don't know.  
17 I was talking --  
18 Q Were you flirting with --  
19 A I wasn't flirting.  
20 Q Were you flirting with  
21 Cindy?  
22 A Cindy's a beautiful woman.  
23 Cindy was a beautiful woman. Was I  
24 flirting? I don't know if I was  
25 flirting. Did I like Cindy? Cindy was

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1 M.H. Capogrosso  
2 very pretty.  
3 When I found out that they  
4 were dating, I said that's it.  
5 Q What did you say to Cindy?  
6 A I wasn't flirting. I  
7 thought Cindy was a very attractive  
8 woman. Marisol Cervoni is a very  
9 attractive woman.  
10 Q But what did you say to  
11 Cindy on this day, January 5?  
12 A I don't remember. I know it  
13 was maybe how are you doing, what are you  
14 doing for the weekend, are you going --  
15 you know, maybe something to that. I  
16 don't know. I don't remember the  
17 specifics.  
18 But I do remember I liked --  
19 Cindy was a nice lady. She was a nice  
20 lady and she was a beautiful woman.  
21 Q Did you try to -- did you  
22 try to fight Mr. Hon (phonetic)?  
23 A No. Absolutely not.  
24 Q Did you block in his car?  
25 A Absolutely not. If you look

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1 M.H. Capogrosso  
2 at the --  
3 Q What happened?  
4 A If you look at the affidavit  
5 that George Hon wrote, George Hon wrote,  
6 not what Bushra Vahdat said happened,  
7 what George Hon wrote was that I was  
8 sitting in my car, which I do after work,  
9 to make phone calls to my clients, which  
10 I'm required to do and that George  
11 approached me, got out of his car. At  
12 that point I get out of my car.  
13 If somebody approaches me in  
14 their car, stops their car -- if they  
15 stay in the car, I stay in the car. If  
16 you get out of your car, I'm getting out  
17 of my car. And he approached me. That's  
18 what George Hon wrote. Read it.  
19 Q So did you have any sort of  
20 confrontation with George Hon out in the  
21 parking lot?  
22 A I said what's the problem.  
23 He started yelling and screaming at me  
24 about this and that. I said what's the  
25 problem. Then I find out they're dating.

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1 M.H. Capogrosso  
2 I said fine, hands off, I don't need this  
3 aggravation. She's a nice woman, but I  
4 don't need the aggravation.  
5 Q So he yelled at you. You  
6 didn't yell at him?  
7 A I'm sitting in my car like I  
8 do every day. Either I go there, I sit  
9 in a park, sometimes I go to the beach.  
10 I'm sitting there, I'm making phone  
11 calls. I'm sitting in my car.  
12 Read what George wrote and  
13 then read what Bushra Vahdat wrote, some  
14 story, I'm blocking people. Read what  
15 George wrote. He approaches me. He gets  
16 out of his car. I'm sitting in my car.  
17 That's the truth.  
18 Q And so did George and Bushra  
19 lie?  
20 A George didn't lie. Bushra  
21 lied. Bushra lied.  
22 Q Okay.  
23 A Bushra should not be a judge  
24 if you make up a story like that.  
25 Q So, Mr. Capogrosso, you see

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1 M.H. Capogrosso  
2 this petition where 18 people sign a  
3 letter saying that they believe that  
4 you're a threat to their safety and that  
5 your behavior is unstable.  
6 What do you think that the  
7 TVB should have done about this petition?  
8 A They should have shown it to  
9 me, number one. They should have shown  
10 it to me, number one.  
11 Number two, they should have  
12 told me exactly what I did, exactly what  
13 I did and to give me an attempt to  
14 resolve it. Give me an attempt to  
15 resolve it. Give me the specifics, give  
16 me a chance to apologize if I said  
17 something wrong or I did something wrong.  
18 Give me an opportunity to apologize.  
19 Give me an opportunity to address it.  
20 Tell me the specifics.  
21 Now, the fact that you feel  
22 intimidated by my presence, I can't help  
23 that. I'm sorry, I can't. I am who I  
24 am. I can't help it. I can't change it.  
25 I am who I am. I've been very direct

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1 M.H. Capogrosso  
2 with you, very direct to the Court. I am  
3 who I am.  
4 But if you feel that well,  
5 maybe that's your own personal  
6 insecurity. You might have personal  
7 insecurities. They're not my  
8 insecurities. They're your insecurities.  
9 But give me the exact threats that I used  
10 or what exactly I did.  
11 But if you have personal  
12 insecurity, don't put that personal  
13 insecurity on me.  
14 Q Mr. Capogrosso, so this is a  
15 petition which 18 separate people say  
16 that they think that you're unstable and  
17 a threat to their safety. How do you  
18 feel about that?  
19 A I want to know the  
20 specifics. I feel insulted, number one  
21 and I feel improperly accused. Tell me  
22 what I did. Give me an opportunity to  
23 defend myself and respond and respond to  
24 it and resolve it. Give me that  
25 opportunity. Don't make --

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1 M.H. Capogrosso  
 2 Q Do you think you did --  
 3 A Don't make accusations and  
 4 don't give me an opportunity to respond.  
 5 Q Do you think you did  
 6 anything wrong to have 18 people feel  
 7 that you're a threat to their physical  
 8 safety?  
 9 A I want to know the exact  
 10 specifics. Tell me what I did.  
 11 Q I know, but that's not the  
 12 question. The question is --  
 13 A No, I know.  
 14 Q -- do you think you did  
 15 anything wrong?  
 16 A I don't think I did anything  
 17 wrong, no, I do not. My clients loved  
 18 me. My clients --  
 19 Q Do you think that -- do you  
 20 think that people get petitions written  
 21 about them with 18 signatures saying  
 22 they're a threat to their physical safety  
 23 if they haven't done anything wrong?  
 24 A I don't know why they wrote  
 25 it. Tell me what I did to threaten their

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1 M.H. Capogrosso  
 2 physical safety. Tell me what I did.  
 3 Listen, I'm a black --  
 4 Q Do you think --  
 5 A I'm a black belted martial  
 6 artist, I am. Can I handle myself,  
 7 absolutely. Am I more fearful what I  
 8 would do to somebody as to what they  
 9 would do to me, absolutely. I walk away  
 10 from confrontations all the time. I  
 11 don't want to get into it with anybody, I  
 12 don't. I've been studying martial arts a  
 13 long time. I've been in a boxing ring a  
 14 long time. I don't want to have a  
 15 confrontation with anybody, I do not. I  
 16 know how to handle myself.  
 17 That being said, if you feel  
 18 intimidated or threatened by me, I can't  
 19 help that. That's my persona. That's  
 20 who I am.  
 21 You tell me the specifics of  
 22 what I did and I will resolve it.  
 23 Q Well, there were a number of  
 24 complaints that we've discussed and more  
 25 that we will.

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1 M.H. Capogrosso  
 2 A Sure.  
 3 MR. THOMPSON: So,  
 4 Ms. MacDonald, can I ask you to  
 5 please mark this as Exhibit 7 if you  
 6 haven't already.  
 7 Q One more quick note,  
 8 Mr. Capogrosso, you see how many of the  
 9 signatures on here, such as Marisol  
 10 Cervoni, supervisor as Roy Tucci, are  
 11 people who have already signed complaints  
 12 about your behavior; is that correct?  
 13 A Well, they signed  
 14 complaints, yes. Yes, I've seen the --  
 15 you presented them, I've looked at the  
 16 complaints and I've addressed them.  
 17 Q And you feel that they were  
 18 wrong?  
 19 A I've already explained them  
 20 to you. The first time I saw them and  
 21 the first time I was given an  
 22 opportunity -- you want to talk about  
 23 Roy's? I didn't bump into him. Well, I  
 24 already explained my position on each  
 25 complaint --

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1 M.H. Capogrosso  
 2 Q Okay.  
 3 A -- that you've presented.  
 4 Q And so you feel -- is it  
 5 fair to say that you feel that these  
 6 complaints that they were threatened were  
 7 unfounded?  
 8 A They're unfounded because  
 9 there's no basis for them. Tell me what  
 10 I did. They're absolutely unfounded.  
 11 Tell me what I did. You don't have to  
 12 like me. You know, good attorneys are  
 13 not liked. I don't have to be liked to  
 14 do my job. I have to do my job.  
 15 People don't like me.  
 16 Either they like me or they hate me, I  
 17 know that, but I don't have to be liked.  
 18 I was not shown --  
 19 Q I think we have been --  
 20 A Well, I have not been trying  
 21 to endear myself to the clerks. I did  
 22 not. I was there to do a job. The one  
 23 time I tried doing it, talking to Cindy,  
 24 George got upset.  
 25 Q So let's move on to a new

<p style="text-align: right;">Page 226</p> <p>1 M.H. Capogrosso</p> <p>2 exhibit. I'm going to un-share my</p> <p>3 screen.</p> <p>4 MS. REPORTER: Did you guys</p> <p>5 take a lunch break yet before I came</p> <p>6 on or --</p> <p>7 MR. THOMPSON: Would you</p> <p>8 like one, Mr. Capogrosso?</p> <p>9 THE WITNESS: I don't need</p> <p>10 my brakes.</p> <p>11 MR. THOMPSON: Ms. MacDonald</p> <p>12 or Mr. Brodsky, you're also -- if you</p> <p>13 would like one, we can certainly take</p> <p>14 one. I'm perfectly happy to keep</p> <p>15 going.</p> <p>16 MR. VIDEOGRAPHER: You can</p> <p>17 proceed Counsel, please.</p> <p>18 MS. REPORTER: I mean I'd</p> <p>19 like at least every hour and-a-half a</p> <p>20 five minute break because you guys</p> <p>21 are going -- and this is my fourth</p> <p>22 deposition of the day, so --</p> <p>23 MR. THOMPSON: We can take</p> <p>24 a -- we can take a five minute break</p> <p>25 if you'd like.</p>	<p style="text-align: right;">Page 228</p> <p>1 M.H. Capogrosso</p> <p>2 document?</p> <p>3 A Yes. I recognize the top,</p> <p>4 yes. Is this the one from Yaakov? Yes,</p> <p>5 absolutely, yes.</p> <p>6 Q And what is this document?</p> <p>7 A This is an affidavit from</p> <p>8 Yaakov Brody about the incident that</p> <p>9 occurred on December 22, 2011.</p> <p>10 Q And this is the document</p> <p>11 marked P-92 in your production; correct?</p> <p>12 A Absolutely.</p> <p>13 MR. THOMPSON: And,</p> <p>14 Ms. MacDonald, I'll ask that this</p> <p>15 document be marked Exhibit 8.</p> <p>16 (The above-referred-to</p> <p>17 statement was marked as Exhibit 8 for</p> <p>18 identification as of this date.)</p> <p>19 Q So who is Yaakov Brody?</p> <p>20 A He's an attorney that works</p> <p>21 down there.</p> <p>22 Q Did you have a good</p> <p>23 relationship with him?</p> <p>24 A I never talked to the man.</p> <p>25 I mean I never talked to him really. I</p>
<p style="text-align: right;">Page 227</p> <p>1 M.H. Capogrosso</p> <p>2 MS. REPORTER: Sure.</p> <p>3 MR. THOMPSON: Why don't we</p> <p>4 do that and reconvene at one 1:20.</p> <p>5 MR. VIDEOGRAPHER: Okay.</p> <p>6 The time is 1:15. We are off the</p> <p>7 record.</p> <p>8 (A short recess was taken.)</p> <p>9 MR. VIDEOGRAPHER: The time</p> <p>10 is 1:20. We are on the record.</p> <p>11 MR. THOMPSON: Actually, I'm</p> <p>12 having some problems here where it's</p> <p>13 not letting me share my screen all of</p> <p>14 a sudden.</p> <p>15 Actually, can we go back off</p> <p>16 the record while I figure out what's</p> <p>17 wrong here? My apologies.</p> <p>18 MR. VIDEOGRAPHER: Sure.</p> <p>19 The time is 1:21. We are off the</p> <p>20 record.</p> <p>21 (A short recess was taken.)</p> <p>22 MR. VIDEOGRAPHER: The time</p> <p>23 is 1:22. We are on the record.</p> <p>24 Q Mr. Capogrosso, I'm showing</p> <p>25 you a document. Do you recognize this</p>	<p style="text-align: right;">Page 229</p> <p>1 M.H. Capogrosso</p> <p>2 knew he was down there, but I never</p> <p>3 really had any conversation with him</p> <p>4 until the morning of -- I thought it was</p> <p>5 December 22nd of December. He says</p> <p>6 December 21, 2011.</p> <p>7 Q And so you never talked to</p> <p>8 him before this?</p> <p>9 A Not really, no. He --</p> <p>10 Q Okay.</p> <p>11 A He used to like to schmooze</p> <p>12 with the clerks all the time. He was up</p> <p>13 there for a half an hour at a time</p> <p>14 talking to the clerks, not me.</p> <p>15 Q So Mr. Brody writes</p> <p>16 "Mr. Capogrosso walked in and went to</p> <p>17 reach for his briefcase which was lying</p> <p>18 on the floor next to me. Mr. Capogrosso</p> <p>19 then said excuse me so I could move over</p> <p>20 so that he could get to his briefcase.</p> <p>21 He already had plenty of time, but</p> <p>22 regardless I shifted my body so he would</p> <p>23 have even more room to reach for his</p> <p>24 belongings."</p> <p>25 Do you recall any of this?</p>

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1 M.H. Capogrosso  
 2 A Yeah. It's not the truth.  
 3 I'll tell you what happened. I go in the  
 4 morning in the attorney's room, which is  
 5 about six feet long by about four feet  
 6 wide. It's a very small area. I get a  
 7 cup of coffee in the morning and the New  
 8 York Post. I get my coffee, I put it  
 9 under the bench -- under the bench with  
 10 my briefcase because I don't want my  
 11 coffee spilling on anybody's papers.  
 12 That day Brody is there.  
 13 He's right in front of my coffee. I say  
 14 excuse me, may I please get me coffee?  
 15 Excuse me, can I get my coffee? Brody  
 16 tells me excuse yourself, go fuck  
 17 yourself, you Jew hater anti-Semite. I  
 18 said what?  
 19 I get my coffee. I walk  
 20 away. I come back -- I go in the  
 21 courtroom, I argue a case. I come back,  
 22 put my coffee down where it was again and  
 23 Brody's right there, right -- right in  
 24 front of the coffee between -- the  
 25 coffee's under the bench. He's right

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1 M.H. Capogrosso  
 2 where the bench is and he says to me  
 3 again -- I say excuse me, can I get my  
 4 coffee? He says excuse yourself, go fuck  
 5 yourself you Jew hater anti-Semite.  
 6 That's what I remember and  
 7 that's what happened.  
 8 Q And what happened after  
 9 that?  
 10 A Then after that he walked  
 11 out about 20 feet away, he's looking in  
 12 and Mr. Jeff Meyers came in to talk to me  
 13 as to what happened.  
 14 Q And then?  
 15 A And then I threw a punch in  
 16 the vicinity of a wall, not in the  
 17 vicinity of anyone. I didn't hit the  
 18 wall, I wasn't charged and I was not  
 19 arrested. I was mad. The guy just told  
 20 me to go fuck myself twice. I didn't hit  
 21 the wall. I didn't hit Jeff Meyers.  
 22 I threw a punch in the  
 23 vicinity of a wall. I didn't hit the  
 24 wall and I was not charged and I was not  
 25 arrested and I was required to take an

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1 M.H. Capogrosso  
 2 anger management course.  
 3 Q And did anything happen  
 4 after that?  
 5 A That's it. Nobody took my  
 6 affidavit. Nobody asked me my story.  
 7 There's affidavit after affidavit after  
 8 affidavit here from lawyers who said they  
 9 were there, but the lawyer that was  
 10 actually there, me, got no opportunity to  
 11 explain what happened, nothing.  
 12 But Yaakov Brody gets to --  
 13 who created this incident, told me to go  
 14 fuck myself twice, gets the opportunity  
 15 to write an affidavit. He states at one  
 16 point I'm going to hit you with my  
 17 briefcase. I'm not the type of guy who's  
 18 going to hit you with a briefcase. I'm  
 19 not. If there's an incident and I got to  
 20 defend myself I will, but I'm not going  
 21 to hit you with my briefcase.  
 22 A lying lawyer at the DMV  
 23 who wanted me out, for what reason I  
 24 don't know. I was making too much money  
 25 in his presence. That's what I stated

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1 M.H. Capogrosso  
 2 and that's what I'll hold to.  
 3 Q So your testimony is that  
 4 Mr. Brody just said fuck you, you Jew  
 5 hater anti-Semite out of nowhere?  
 6 A Yeah. I walked in in the  
 7 morning as I always did. I get coffee at  
 8 the deli. I get a paper at the deli. I  
 9 like the Post. I take my coffee, before  
 10 I go in the courtroom I put it under the  
 11 bench. I do it the same way all the  
 12 time.  
 13 I was reaching for my  
 14 coffee, for whatever reason he decided to  
 15 come at me this morning. Do I think he  
 16 was put up to it? I think so. I think  
 17 Bushra Vahdat who had just come on maybe  
 18 wanted me out, I don't know and this was  
 19 her opportunity to get me out. So she  
 20 created this incident, that's my opinion.  
 21 I was blindsided. I can  
 22 have an opinion though. But this is the  
 23 first time I think I was blindsided.  
 24 That's my opinion. Vahdat, Gelbstein  
 25 wanted me out and maybe they put this

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1 M.H. Capogrosso  
 2 attorney up to it because out of the blue  
 3 he just happens to say this.  
 4 My mind was --  
 5 Q Why would --  
 6 A You got to let me finish.  
 7 My mind was someplace else. It was right  
 8 around Christmas time. I'm not really  
 9 thinking. I'm thinking about I got to  
 10 buy Christmas presents and what I'm  
 11 buying for who. That's where my mind was  
 12 on that morning. But that's what  
 13 happened.  
 14 Q Why would Bushra Vahdat and  
 15 Alan Gelbstein want you out?  
 16 A Bushra Vahdat -- well, they  
 17 had complaints against me from the  
 18 clerical staff, right and they had to  
 19 have a reason to have me removed and this  
 20 would have been an excellent reason,  
 21 right. They had all these complaints  
 22 that they were filing against me. There  
 23 was no sum and substance to any of them,  
 24 right.  
 25 But in order to get me

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1 M.H. Capogrosso  
 2 removed they needed an incident like  
 3 this, so they created one. They  
 4 didn't -- they didn't have no -- they had  
 5 no basis to grieve me. There was no  
 6 grievance filed against me. They grieved  
 7 in Emig Tieg (phonetic) in Manhattan  
 8 North because they had a basis for that,  
 9 but they had no basis to grieve me  
 10 because there was no sum or substance to  
 11 any of these complaints, otherwise they  
 12 would have, so they created an incident.  
 13 That's my opinion.  
 14 And I was blindsided. My  
 15 mind was someplace else, it was Christmas  
 16 time and I took the bait. I did the  
 17 right thing. I did throw a punch at a  
 18 wall. I didn't hit the wall because I  
 19 was upset. What makes me a Jew hater  
 20 anti-Semite? What nerve does this  
 21 attorney have to call me a Jew hater  
 22 anti-Semite? I'm working down there 10  
 23 years. There's not one complaint from a  
 24 motorist or a client that I used an  
 25 anti-Semitic remark or a racist remark.

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1 M.H. Capogrosso  
 2 What right does this man  
 3 have to call me an anti-Semite Jew hater?  
 4 Q So why would he think that  
 5 you're a Jew hater anti-Semite? Why  
 6 would he say that out of nowhere?  
 7 A Let me know. I'd like --  
 8 why don't you ask him? Why don't you ask  
 9 him? Ask this Mr. Yaakov Brody.  
 10 Q Had you ever --  
 11 A I'm making too much money in  
 12 his presence? I don't know. I'm an  
 13 Italian America down there. I'm  
 14 surrounded by Jewish lawyers. Most of  
 15 the lawyers down there are Jewish. Most  
 16 of the judges are Jewish.  
 17 Maybe I'm making too much  
 18 money. I don't know. Maybe I saw what  
 19 Judge Gelbstein was doing with the ticket  
 20 brokers. I don't know. But this guy had  
 21 it in for me --  
 22 Q Had --  
 23 A -- and I took the bait.  
 24 Q Had you ever discussed Jews  
 25 or Judaism with Mr. Brody before this?

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1 M.H. Capogrosso  
 2 A Absolutely not. Listen, I  
 3 was there 10 years, 10 years I was there.  
 4 Look at the complaints against me. Not  
 5 one client or motorist made a statement  
 6 that I made an anti-Semitic or a racist  
 7 remark, not one.  
 8 Now I have to have this  
 9 lawyer call me a Jew hater anti-Semite.  
 10 For what reason?  
 11 Q So had you had conversations  
 12 with Jews -- about Jews or Judaism at all  
 13 with anyone previous to this?  
 14 A No. I don't -- no, no. I  
 15 don't care who you are, what religion you  
 16 are. I'm Catholic. I don't care what  
 17 you want to be. You're Jewish, fine. Do  
 18 whatever you like. God bless. I could  
 19 care less.  
 20 You look at the motorists  
 21 and the clients that I represented,  
 22 they're all nationalities, all races, all  
 23 of them. Not one indicated I made an  
 24 anti-Semitic or a racist remark and I'm  
 25 dealing with thousands, almost 850

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1 M.H. Capogrosso  
 2 clients I had on the docket. I'm dealing  
 3 with hundreds of clients on a monthly  
 4 basis. Not one made a statement that I  
 5 made any type of statement, any type of  
 6 racist or anti-Semitic statement, not  
 7 one.  
 8 I took this very personally  
 9 and I had to go to an anger management  
 10 course because I did take it personally.  
 11 Q So Mr. Brody writes that  
 12 "Mr. Capogrosso lashed out at me and said  
 13 he was being nice by saying excuse me and  
 14 next time he would simply hit me with his  
 15 briefcase" and you said you never said  
 16 that; correct?  
 17 A I would never hit you with  
 18 my briefcase. If I'm going to hit you,  
 19 I'm going to hit you. If I'm going to --  
 20 if I have to -- if it comes to the point  
 21 where I've got to hit you, I'm going to  
 22 hit you. All right.  
 23 If I have to defend myself  
 24 against a physical attack, a knife, a  
 25 gun, I'm going to hit you or I'm going to

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1 M.H. Capogrosso  
 2 get hit, but I'm not going to hit you  
 3 with my briefcase. That's not something  
 4 I would do.  
 5 This guy, Yaakov Brody, I  
 6 don't know what type of man he is, but  
 7 I'm not going to hit you with my  
 8 briefcase. That's an absolute lie. I am  
 9 not the type of guy who's going to hit  
 10 you with a briefcase.  
 11 Q So he writes that you  
 12 proceeded to tell him that the next time  
 13 you see him you better get out of his  
 14 way.  
 15 A That's not true.  
 16 Q Did you say that?  
 17 A No, absolutely not. Get out  
 18 of my way for what reason? We are both  
 19 working in the same building. How is he  
 20 going to get out of my way? We are both  
 21 attorneys at the same location. How is  
 22 he going to get out of my way?  
 23 Q He writes that there were  
 24 three other attorneys in the room. Do  
 25 you remember there being anyone else in

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1 M.H. Capogrosso  
 2 the room?  
 3 A I remember -- let me think.  
 4 The first time, no, it was just me and  
 5 him.  
 6 The second time I went back  
 7 and I put my -- I went to the courtroom  
 8 and I came back and I said this guy  
 9 must -- I don't know. He was there in  
 10 the same location. My coffee, I put my  
 11 coffee back under the chair. He was  
 12 exactly in the same exact location as the  
 13 first time.  
 14 At that time -- who was in  
 15 there at that time? I think -- there was  
 16 another attorney. It wasn't Rick Maher,  
 17 that I know. He wasn't there. There was  
 18 another lawyer there, but I forgot the  
 19 guy's name. I forgot. There was one  
 20 other lawyer there, but I forgot the  
 21 guy's name. It wasn't Meyers, but there  
 22 was another lawyer there.  
 23 Q So he writes that you took a  
 24 seat across from Mr. Brody and complained  
 25 that you didn't -- that he didn't give

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1 M.H. Capogrosso  
 2 you enough room. He continued to ignore  
 3 you he says.  
 4 Then he writes, quote,  
 5 "Eager to show how angry he really was,  
 6 he took his coffee cup which still had  
 7 some coffee inside and threw it my  
 8 direction toward the garbage can that was  
 9 next to me."  
 10 Did you throw the garbage --  
 11 the coffee cup?  
 12 A First of all, we are in a  
 13 lawyers' room that's six feet by about  
 14 four feet wide. There's bench on either  
 15 side. All right. I'm allowed to go in  
 16 the lawyers' room. Even after -- I'm  
 17 allowed to go in. My briefcase was in  
 18 there, number one. I wanted to make sure  
 19 nobody touched my briefcase. I had my  
 20 files in it.  
 21 Number two, my coffee's  
 22 still there in the lawyers' room because  
 23 I can't bring it into a courtroom. So I  
 24 get my coffee now. Now, I'm sitting  
 25 there and he comes in and sits there next

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1 M.H. Capogrosso  
2 to the garbage can, this Brody. I finish  
3 my coffee cup. I said this guy is going  
4 to start in on me again. Now he's going  
5 to come at me for the third time. I  
6 finish my coffee and as I'm leaving, he's  
7 sitting right next to the coffee -- right  
8 next to the garbage can. I threw my  
9 empty cup, which I'm allowed to do, into  
10 a garbage can. I didn't throw it at him.  
11 I threw it into a garbage can and I  
12 walked out.  
13 And he came -- when I was in  
14 there first and then he comes back in for  
15 a third time and then he goes -- then  
16 what do you call it, Meyers comes in,  
17 into there and says what's going on, Jeff  
18 Meyers who was a lawyer. That's what  
19 happened that day.  
20 Q So Mr. Brody writes that "I  
21 complained to Mr. Capogrosso that this  
22 was not civilized behavior and I did  
23 nothing to warrant such hostility.  
24 Enraged, Mr. Capogrosso went on a rant on  
25 how I was a, quote, Jew fucking cunt, a

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1 M.H. Capogrosso  
2 phrase which he repeated about six or  
3 seven times."  
4 What's your memory of what  
5 happened here?  
6 A Well, I might have said  
7 that.  
8 MS. REPORTER: Wait, hold  
9 on. My machine just stopped writing.  
10 Let me read what I have and then pick  
11 up from there.  
12 (The requested portion was  
13 read back by the Court Reporter.)  
14 A Well, the man just told me  
15 to go fuck myself twice, I'm a Jew hater  
16 anti-Semite. Now out of the blue I'm  
17 making a statement like this, you Jew  
18 fucking cunt? First of all, he is a Jew.  
19 The word fucking, I might have used that  
20 and the C word, I'm not sure.  
21 But was he acting like a  
22 real man on that date provoking a fight  
23 when I say excuse me, can I get a cup of  
24 coffee?  
25 I mean I don't recall making

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1 M.H. Capogrosso  
2 the statement. I know I was mad. I was  
3 mad and I did take an anger management  
4 course and I was blindsided, but all I  
5 did was say excuse me can I get my  
6 coffee.  
7 And if you look at the  
8 affidavit from Tahir, it states that I  
9 said excuse me twice. That's all I have  
10 to say about that.  
11 Q Mr. Brody writes that after  
12 that you went on to say that the place  
13 was run by Jews. Did you say that?  
14 A I don't recall saying that,  
15 but all the --  
16 Q Did you --  
17 A There are Jewish -- Judge  
18 Gelbstein is Jewish. It's a true  
19 statement. It is a true statement. Most  
20 of the judges down there, it's a true  
21 statement. Bushra Vahdat is a Jew. Ida  
22 Traschen is a Jew. I am an Italian  
23 American.  
24 Is it a true statement,  
25 yeah. Did I say that? I don't recall

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1 M.H. Capogrosso  
2 saying it. But is it a true statement,  
3 yeah, most of the judges in the Brooklyn  
4 TVB were Jewish, yes. Most of the  
5 lawyers were Jewish.  
6 I'm trying to understand in  
7 my head why this guy is telling me to go  
8 fuck myself, I'm a Jew hater anti-Semite  
9 when I've been there since 2005 and you  
10 don't have a complaint or an allegation  
11 from a client that I ever acted in this  
12 manner or said anything to a client or  
13 motorist.  
14 What is making this guy say  
15 this to me I'm trying to think and I  
16 still can't figure it out, other than he  
17 was put up to it, other than he was put  
18 up to it and I took an anger management  
19 course because I did throw a punch at a  
20 wall and I should not have thrown -- have  
21 done that, but I -- what do you want me  
22 to do? I'm a human being.  
23 Q So I'm not sure if I was  
24 quite clear. Did you -- did you actually  
25 say that the place was run by Jews?

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1 M.H. Capogrosso  
2 A I don't recall saying that,  
3 but is that true that it is mostly Jewish  
4 judges, yes, that's a true statement. Do  
5 I remember saying it, no, I don't  
6 remember saying it. But is it true, yes,  
7 it is true.  
8 All my accusers in this  
9 case, Judge Gelbstein, Ida Traschen,  
10 Bushra Vahdat, Yaakov Brody who started  
11 this is Jewish, are Jewish. I'm an  
12 Italian American. That's a true  
13 statement.  
14 Q Do you think -- does it make  
15 a difference that they're Jewish or that  
16 you're Italian?  
17 A No. I don't care who you  
18 are. I treat everybody the same. I  
19 treat everyone respectfully. I treat  
20 everyone respectfully. Look at the --  
21 Q And do you --  
22 A Look at my clients, there's  
23 not one accusation from a client that I  
24 used -- and there's all different  
25 nationalities I'm dealing with down in

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1 M.H. Capogrosso  
2 Brooklyn TVB, Russian, Jewish, Italian,  
3 Arabic, Muslim, not one from a client or  
4 a motorist, that I used an anti-Semitic  
5 or racist remark.  
6 The only racist here is  
7 Judge Gelbstein who told me a spade is a  
8 spade.  
9 Q Does it make a difference  
10 that many of the people in leadership at  
11 the DMV are, in fact, Jewish?  
12 A No. I could care less. God  
13 bless, you got a job, God bless.  
14 Actually, the best judges were the Jewish  
15 judges. In a courtroom, Gelbstein gave  
16 you the best chance. Bonstein  
17 (phonetic), I mean not Gelbstein,  
18 Bonstein gave you a great chance to win.  
19 Chaune (phonetic) gave me a great  
20 chance. Tilman gave me a great chance to  
21 win. What do you call it?  
22 The best judges were the  
23 Jewish judges in the courtroom for me.  
24 Walters gave me good -- Walters gave me a  
25 terrible choice to win. Ross gave me a

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1 M.H. Capogrosso  
2 bad choice. Who else was there?  
3 Esposito, he gave me a -- he eventually  
4 got better, but at the start he was very  
5 tough.  
6 But the best judges at the  
7 start for me doing my job were Bonstein,  
8 Tilman and Chaune. They were the best.  
9 Abish (phonetic) was great in a courtroom  
10 for a lawyer in dealing with these cases.  
11 Q So, Mr. Capogrosso,  
12 yesterday at his deposition Judge  
13 Gelbstein testified that you called him  
14 to his face a beanie wearing Kike; is  
15 that true?  
16 A That's an absolute lie.  
17 That is an absolute lie. That judge  
18 should be taken off the bench for making  
19 a statement like that. That is an  
20 absolute lie. That is a judge who wrote  
21 that affirmation after I was removed from  
22 the Brooklyn TVB because of this incident  
23 in 2011 he wrote that affirmation. You  
24 don't see that -- you don't see that  
25 documented anyplace until after I was

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1 M.H. Capogrosso  
2 removed.  
3 That is an absolute lie by  
4 that judge. He doesn't indicate the  
5 circumstances for which I said it or does  
6 anybody corroborate it, anybody witnessed  
7 it. That is an absolute lie and that  
8 judge should be removed because he made  
9 that statement to get me kicked out and  
10 that is why I'm looking for punitive  
11 damages.  
12 That is a lying lawyer  
13 acting as a judge who should be taken off  
14 the bench.  
15 Q And why at this point did he  
16 want you kicked out?  
17 A I don't -- why did he  
18 want -- you saw all the affidavits  
19 written about me. He wanted me out. You  
20 saw all the clerks' affidavits. He  
21 wanted me out. I was -- maybe I was  
22 making too much. I don't know why. He  
23 wanted to keep things nice and quiet down  
24 there so he could get a piece of the  
25 action.

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1 M.H. Capogrosso  
 2 I don't know why he wanted  
 3 me out, but I never made that statement.  
 4 Never made that statement to him.  
 5 Q So Mr. Brody writes that  
 6 when he protested to you how he could use  
 7 the language about being Jewish that you  
 8 stated "What do you care, just call me a  
 9 fucking Italian ginny."  
 10 A That should be Gini, but I  
 11 never said. I don't recall saying that.  
 12 Q You never said that?  
 13 A No. I know I was upset. I  
 14 walked in that morning and I was having a  
 15 personal problem with some woman I was  
 16 dating at the time and I'm thinking what  
 17 present I have to buy her and my head was  
 18 not there with buying this woman a  
 19 present and next thing you know I get  
 20 blindsided because I'm saying excuse me,  
 21 can I get my coffee and he blindsided me.  
 22 Q And is it safe to say so  
 23 you -- let me withdraw that question.  
 24 So, Mr. Capogrosso, you  
 25 believe that Mr. Brody lied in this

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1 M.H. Capogrosso  
 2 complaint; correct?  
 3 A Absolutely, the whole thing,  
 4 the whole thing. I pointed them out.  
 5 I'm not hitting you with my briefcase. I  
 6 am not going to hit you with my  
 7 briefcase. I never heard of such  
 8 nonsense. I am not the type of guy who's  
 9 going to hit you with a briefcase. I  
 10 never heard of that nonsense.  
 11 There's no reason for me to  
 12 act like this in the morning when I say  
 13 excuse me to the man. I go from excuse  
 14 me to go fuck -- I go from that, I say  
 15 excuse me, I'm trying to be polite.  
 16 Come on, a lying lawyer at  
 17 the DMV wanted me out. I don't know why.  
 18 I think Bushra Vahdat and Alan Gelbstein  
 19 put him up to it. That's my opinion.  
 20 Q Okay. So let's move on.  
 21 MR. THOMPSON: This I  
 22 believe was marked as Exhibit 8. If  
 23 we didn't do that, let's please mark  
 24 it that way.  
 25 Let me close out of this and

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1 M.H. Capogrosso  
 2 out of the Screen Share.  
 3 (The above-referred-to  
 4 statement was marked as Exhibit 9 for  
 5 identification as of this date.)  
 6 Q Mr. Capogrosso, can you see  
 7 this document?  
 8 A Yes.  
 9 Q And this document is from  
 10 your production marked P-250; correct?  
 11 A Yeah. This is from Richard  
 12 Maher, yes.  
 13 Q And what is this document?  
 14 A Well, that was an affidavit  
 15 that another attorney got to write, I  
 16 never got to write my affidavit as to  
 17 what happened, who was not even in the  
 18 room that day. Maher was not even in the  
 19 room. I know Brody was in the room at  
 20 the first one, the time he said excuse  
 21 me, go fuck yourself.  
 22 And then the second time  
 23 there was another attorney, I forgot the  
 24 guy's name, but it wasn't Maher. Maher  
 25 was not even in the room. I don't think

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1 M.H. Capogrosso  
 2 he was even there that day, but I'll go  
 3 through it, what I remember.  
 4 Q So who is Richard Maher  
 5 before we get too far?  
 6 A He's a lawyer down there  
 7 that worked at the TVB.  
 8 Q Did you have a good  
 9 relationship with Mr. Maher?  
 10 A I never talked to the guy  
 11 that much.  
 12 Q And for the transcript Maher  
 13 is M-A-H-E-R; correct?  
 14 A I don't know how he spells  
 15 his name. I don't know.  
 16 Q It's spelled that way on  
 17 here.  
 18 A Right. I don't know how he  
 19 spells it.  
 20 Q So is it correct to say that  
 21 this statement corroborates Mr. Brody's  
 22 account?  
 23 A I don't know. I don't know.  
 24 That's his version. I don't know if it  
 25 corroborates it or not. I don't know.

<p style="text-align: right;">Page 254</p> <p>1 M.H. Capogrosso</p> <p>2 He wasn't in the room. They could be</p> <p>3 making up -- they could have corroborated</p> <p>4 the story after the fact.</p> <p>5 The man was not in the room.</p> <p>6 I know who was in the room. I was there.</p> <p>7 This man was not in the room.</p> <p>8 Q So it's your testimony that</p> <p>9 Mr. Maher made up what's in this</p> <p>10 statement?</p> <p>11 A Well, tell me exactly which</p> <p>12 portions. He was not in the room that</p> <p>13 day. I remember it very, very</p> <p>14 distinctly.</p> <p>15 Q Sure.</p> <p>16 A He was not in the room.</p> <p>17 When Brody came in and I said excuse me,</p> <p>18 me and him were the only ones there.</p> <p>19 When I came back again,</p> <p>20 there was another attorney there. I</p> <p>21 forgot the man's name. It wasn't this</p> <p>22 attorney. Maher was never anyplace to be</p> <p>23 seen.</p> <p>24 Q So first off I'll note he</p> <p>25 says that the lawyers' room can</p>	<p style="text-align: right;">Page 256</p> <p>1 M.H. Capogrosso</p> <p>2 Capogrosso grumbled about Mr. Brody's</p> <p>3 lack of decorum and began to berate</p> <p>4 Brody."</p> <p>5 So that's basically the same</p> <p>6 version of events that Mr. Brody said;</p> <p>7 correct?</p> <p>8 A No, it's not. It's not what</p> <p>9 happened. I'm not looking to sit down.</p> <p>10 I'm looking to get my coffee. I have to</p> <p>11 go in the -- I'm looking to get my</p> <p>12 coffee. I'm not looking to sit down. I</p> <p>13 said excuse me, can I get my coffee.</p> <p>14 Those are the words I actually stated.</p> <p>15 I'm not looking to sit down.</p> <p>16 My coffee is already under the bench. My</p> <p>17 briefcase is already under the bench.</p> <p>18 I'm looking to get my coffee so I can</p> <p>19 have some coffee before I go into the</p> <p>20 courtroom to argue my cases. I'm not</p> <p>21 looking to sit down. It's not correct.</p> <p>22 Q And when he says that you</p> <p>23 began to berate Brody; is that correct?</p> <p>24 A No. I said excuse me very</p> <p>25 politely, can I get my coffee. He said</p>
<p style="text-align: right;">Page 255</p> <p>1 M.H. Capogrosso</p> <p>2 accommodate up to a dozen attorneys; is</p> <p>3 that right?</p> <p>4 A The lawyers' room is</p> <p>5 precisely I would say six to eight feet</p> <p>6 long, five feet wide. There are benches</p> <p>7 that are at least, what, a foot in width,</p> <p>8 so that leaves about three feet to walk,</p> <p>9 three feet between the benches. Eight</p> <p>10 feet, six to eight feet long, five feet</p> <p>11 wide, the benches are a foot, that's the</p> <p>12 dimensions.</p> <p>13 I don't think it could fit</p> <p>14 12, no. I don't believe so, no.</p> <p>15 Q Mr. Maher writes "When</p> <p>16 Mr. Capogrosso entered, he asked</p> <p>17 Mr. Brody to move so he could sit.</p> <p>18 Mr. Brody did his best to reasonably</p> <p>19 comply with this request. The bench</p> <p>20 contained the belongings of other</p> <p>21 attorneys and Brody in fact tried to make</p> <p>22 more room so that Capogrosso could sit."</p> <p>23 Then there's a parenthetical here.</p> <p>24 "Far from acknowledging</p> <p>25 Mr. Brody's attempt to show him courtesy,</p>	<p style="text-align: right;">Page 257</p> <p>1 M.H. Capogrosso</p> <p>2 excuse yourself, go fuck yourself you Jew</p> <p>3 hater anti-Semite, at which point I took</p> <p>4 my coffee and I walked away. I came</p> <p>5 back, I put my coffee under it. He -- I</p> <p>6 had some coffee, I put it back under the</p> <p>7 bench so I could go argue my case.</p> <p>8 I come back, he's standing</p> <p>9 in the same place again and tells me</p> <p>10 again excuse myself, go fuck myself.</p> <p>11 Q Mr. Maher writes "Capogrosso</p> <p>12 then began to inveigh against Brody in</p> <p>13 vituperative terms as his temper</p> <p>14 continued to rise beyond all reason given</p> <p>15 the fact that Brody was extending</p> <p>16 courtesy to him by now under duress."</p> <p>17 A That -- this is an absolute</p> <p>18 lying lawyer at the DV -- at the TVB</p> <p>19 again.</p> <p>20 Q So why would Mr. --</p> <p>21 A I don't --</p> <p>22 Q Why would Mr. Maher lie?</p> <p>23 A Let me finish. Okay.</p> <p>24 Finish your question. Go ahead.</p> <p>25 Q I'm sorry. Part of the</p>

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1 M.H. Capogrosso  
2 problem is you speak and then you pause  
3 and then I think you're done and then I  
4 start talking.  
5 A What's the question?  
6 Q So why would Mr. Maher lie?  
7 A Ask Mr. Maher. I have no  
8 idea. This is not what happened. I'm  
9 telling you what happened. I'm not  
10 getting this angry over nothing. I'm not  
11 getting this angry if Brody didn't  
12 approach me and tell me to go fuck myself  
13 twice. I'm not getting angry like this  
14 and upset like this if the man didn't  
15 approach me and tell me to go fuck myself  
16 twice when all I said to the man was  
17 excuse me, can I get my coffee.  
18 Now write whatever you like,  
19 but no man's going to get angry like this  
20 unless he's told to go fuck himself  
21 twice.  
22 Q So you have no idea why  
23 Mr. Maher would write this?  
24 A I have no idea. Maybe  
25 they're friends. I don't know. I don't

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1 M.H. Capogrosso  
2 know.  
3 Q Do you have a suspicion?  
4 A No. I don't know. Maybe  
5 they're two Jewish American attorneys and  
6 I'm an Italian American attorney and  
7 they're ganging up on me. I don't know.  
8 You figure it out. You ask them. I  
9 don't know.  
10 Q Did you --  
11 A That's a fact. He --  
12 Q Did you think that  
13 Mr. Maher --  
14 A I don't know. Go ahead.  
15 Q Did you think Mr. Maher  
16 wanted you out?  
17 A I don't know if he did or  
18 not. I never talked to the man. I  
19 didn't like him. I didn't like the way  
20 he handled cases. Did I like the man,  
21 no. Did I dislike him, no, I really  
22 didn't care. He had a job to do, I had a  
23 job to do.  
24 I wasn't -- I wasn't  
25 required to like other attorneys. I was

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1 M.H. Capogrosso  
2 required to do a job. You know, I choose  
3 my friends very carefully. I get -- you  
4 know, I choose them very carefully. I  
5 don't have to like everybody in this  
6 world.  
7 Did I like his approach, no,  
8 but he had -- he had his right to do his  
9 job. I had a right to do my job.  
10 Q Mr. Maher --  
11 A I don't have to like you.  
12 Q Mr. Maher writes again that  
13 your remarks, quote, "became intensely  
14 personal, directed at Brody, his person  
15 and his culture, his ethnicity and his  
16 very humanity." Is that true?  
17 A He told me to go fuck myself  
18 twice. Did I call him a fucking Jew  
19 cunt? I probably called him a fucking  
20 something. I don't remember exactly the  
21 words I did, but if you're going to tell  
22 me to go fuck myself, I am going to  
23 respond, all right.  
24 Q So this --  
25 A If you tell me to go fuck

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1 M.H. Capogrosso  
2 myself twice, that I'm an anti-Semite Jew  
3 hater, that I'm making too much money  
4 it's my opinion in your presence, I'm  
5 going to respond. I'm going to respond.  
6 I think any normal man would respond,  
7 whether an attorney or not. Outside of a  
8 courtroom when it's not -- any normal man  
9 is going to respond to an accusation like  
10 that.  
11 So is this man lying, yeah,  
12 he's lying.  
13 Q So Mr. Maher writes, quote,  
14 "Nothing Brody did or said during  
15 Capogrosso's verbal attack was in any way  
16 provocative or confrontational."  
17 A Well, first of all --  
18 Q Do you see that?  
19 A Yeah. Maher wasn't in the  
20 room on the first instance. He wasn't  
21 there on the second incident either, so  
22 he doesn't know what Brody said to me.  
23 Brody told me excuse yourself, go fuck  
24 yourself, you're a Jew hater anti-Semite  
25 twice, not once, twice. The first time I

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1 M.H. Capogrosso  
2 walked away. The second time I said  
3 what's going on with this guy. He said  
4 it twice to me and I was never given an  
5 opportunity to write my affidavit.  
6 Q So Mr. Maher writes that  
7 Mr. Brody spoke up strongly, quote, "when  
8 Capogrosso referred to him as a fucking  
9 Jew cunt."  
10 So there's the language  
11 again. Does that refresh your memory at  
12 all?  
13 A Did I say something to  
14 Brody, yeah. Yeah, I did. I don't know  
15 if I called him a Jew cunt. Is he a Jew,  
16 yeah. Did I use the word fuck, I might  
17 have. Was he acting like a man at this  
18 point, no, not in my estimation.  
19 If you provoke a fight like  
20 that and you say this out of the blue,  
21 was he acting like a real man, no, he  
22 wasn't acting like a man.  
23 Did I use those words? I  
24 don't think I used the word -- I don't  
25 know what I said, but I probably said

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1 M.H. Capogrosso  
2 something, but I don't know exactly what  
3 I said, but I did say something. I was  
4 mad. The man got me --  
5 Q He said --  
6 A The man blindsided me, got  
7 me thrown out of the DMV, blindsided me.  
8 I was thrown out of the DMV the next day  
9 by Gelbstein telling me I'm not welcome  
10 here anymore. I was never given an  
11 opportunity to write an affidavit to say  
12 what I had to say, my version of the  
13 story, by anybody.  
14 Judge Gelbstein, Bushra  
15 Vahdat, Ida Traschen, never given an  
16 opportunity to write my affidavit, where  
17 every attorney got an opportunity to  
18 write an affidavit. I was thrown out. I  
19 had to take an anger management course  
20 that cost me \$10,000. So was I upset  
21 that day, yeah, I was upset.  
22 Q Mr. Maher writes that  
23 Michael Beer spoke up and said that you  
24 crossed the line of decency. Do you  
25 remember Michael Beer saying anything?

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1 M.H. Capogrosso  
2 A Michael Beer was the other  
3 attorney in the room the second time.  
4 The second time Beer was there. Now you  
5 refreshed it, yeah. Michael Beer was the  
6 other attorney. He wasn't there the  
7 first time. He was there the second  
8 time, that I remember, Beer. Beer was  
9 there.  
10 When Brody was standing in  
11 front of the coffee again and I said  
12 excuse me, can I get my coffee, so Beer  
13 was in the -- was in the room the second  
14 time that Brody did this to me.  
15 Q And Mr. Maher writes that  
16 you, quote, "expressed the belief that  
17 the DMV was in fact run by fucking Jew  
18 cunts;" is that correct?  
19 A I don't remember saying that  
20 exactly. I don't remember saying that,  
21 no. Is it run by Jewish judges and  
22 lawyers, yeah. Am I an Italian American,  
23 absolutely. Did Judge Gelbstein give me  
24 an opportunity to write my affidavit and  
25 response, no. Did Bushra Vahdat give me

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1 M.H. Capogrosso  
2 an opportunity, no. Did Ida Traschen,  
3 no. They accepted this all as truth,  
4 these affidavits, giving me no  
5 opportunity to respond.  
6 Now, most of the judges down  
7 there are Jewish. The best -- the best  
8 judges in the courtroom were Jewish, I'm  
9 not going to deny that, they were, but  
10 these Jewish judges gave me no  
11 opportunity to respond.  
12 Q So let's move on to the next  
13 exhibit.  
14 A Please.  
15 Q Mr. Capogrosso, can you see  
16 this exhibit?  
17 A Yes.  
18 Q And you can see this is from  
19 your production and marked P-96; correct?  
20 A Yes. This is a Sadiq Tahir,  
21 yes.  
22 Q Do you recognize this  
23 document?  
24 A Yes.  
25 Q And what is it?

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1 M.H. Capogrosso  
2 A It's an affidavit from  
3 Tahir, another attorney, who had the  
4 opportunity to write an affidavit and I  
5 didn't as to what happened.  
6 MR. THOMPSON: And,  
7 Ms. MacDonald, can we mark this as  
8 Exhibit 10.  
9 (The above-referred-to  
10 statement was marked as Exhibit 10  
11 for identification as of this date.)  
12 Q So, Mr. Capogrosso, who is  
13 Sadiq Tahir?  
14 A He's a lawyer at the  
15 Brooklyn TVB. We were friends at one  
16 point in time, really good friends. We  
17 used to go out drinking together.  
18 Q When was that?  
19 A Before this incident. We  
20 used to go out all the time. We used to  
21 hang out at the same clubs. We used to  
22 hang out. We both drank. We used to go  
23 out drinking in Brooklyn.  
24 Q Mr. Capogrosso, do you know  
25 what Mr. Tahir's current status is?

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1 M.H. Capogrosso  
2 A I think he's passed. I  
3 think he died.  
4 Q I heard that, too. You  
5 know, I don't --  
6 A I don't know.  
7 Q I heard people say that, but  
8 I don't know if it's actually true.  
9 A I don't know either, but we  
10 were friends at one point in time.  
11 Really -- I used to drive him -- I used  
12 to drive him home at night. He used to  
13 ask me for a ride home. We used to be  
14 really close. I went over to his  
15 apartment.  
16 This hurts me more than  
17 anything, this affidavit. We were  
18 really, really close me and him.  
19 Q So then if you were so  
20 close, why do you think he wrote this  
21 statement?  
22 A I don't know what happened.  
23 I don't know. I know that he tells me  
24 Mr. Capogrosso walked, and he's being  
25 truthful here, and said excuse me. I

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1 M.H. Capogrosso  
2 did. He says that and I did say that.  
3 Maybe he was in the room. I don't know.  
4 "He moved to the side to  
5 reach for his bag lying under the" -- "he  
6 then said again excuse me." I'm saying  
7 excuse me twice. Now Brody says why are  
8 you being rude, you have enough -- I said  
9 I didn't have enough room. If I  
10 didn't -- if I had room enough to get my  
11 coffee -- this -- why would I say excuse  
12 me?  
13 That's when Brody says  
14 excuse yourself, go fuck yourself, I'm a  
15 Jew hater anti-Semite.  
16 Q So up until this point when  
17 he talks about saying excuse me, is  
18 Mr. Tahir's account correct?  
19 A I don't know. What point?  
20 Mr. Capogrosso walked into the room. I  
21 did do that. I said excuse me. I did do  
22 that. I was looking for my coffee. Now,  
23 Brody didn't move away. I had to say  
24 excuse me twice. I had to say it twice.  
25 I have to be expelled from

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1 M.H. Capogrosso  
2 the Brooklyn TVB because I'm asking an  
3 attorney back in December of 2011 excuse  
4 me, can I get my coffee. I have to be  
5 expelled and take an anger management  
6 course because this lawyer couldn't just  
7 move to the side and let me get my  
8 coffee. He had to call me -- tell me I'm  
9 a Jew hater, fuck you I'm a Jew hater and  
10 I'm the cause of this now.  
11 But go ahead, I'm listening.  
12 Q Mr. Tahir writes "Mr. Brody  
13 said you have enough room. Why are you  
14 so rude. Mr. Capogrosso got so upset  
15 that he started shouting against Jews.  
16 Mr. Beer who was also sitting in the room  
17 asked Mr. Capogrosso that it's enough,  
18 that you -- it's enough, you can't curse  
19 Jews." Is that correct?  
20 A Beer was in the room. Beer  
21 was in the room, that I remember. I  
22 remember -- said you had enough room -- I  
23 didn't have enough room. I said excuse  
24 me, can I get my coffee. He refused to  
25 move the first time and then he -- then

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1 M.H. Capogrosso  
2 he's telling me excuse yourself, go fuck  
3 yourself.  
4 Then I come back, Beer is  
5 there. I remember Beer. I'm not sure if  
6 Sadiq was there and -- Sadiq must have  
7 obviously been there because he does say  
8 the words excuse me.  
9 And he refused to be --  
10 he -- then he said it again to me, excuse  
11 yourself, go fuck yourself. At that time  
12 I got upset. At that point I got upset.  
13 He walked -- at that point I got upset.  
14 Yes, I did, I'm not going to deny it. I  
15 took an anger management course.  
16 Q So he writes that  
17 "Mr. Capogrosso said you can call me a  
18 fucking Italian Gini. Mr. Brody said  
19 that you're an anti-Semite and you don't  
20 belong in this place. Mr. Brody shouted  
21 stop it and in the meantime Ms. Daniel,"  
22 I guess that means Danielle, "Calvo came  
23 into the room and tried to cool down the  
24 situation." Is this correct?  
25 A I know Beer was in the room.

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1 M.H. Capogrosso  
2 I don't remember what he was saying. I  
3 was upset at that point in time. Listen,  
4 I was upset. You know, I don't recall  
5 exactly what I said.  
6 Did Calvo come out? Calvo,  
7 if she came out she took everybody's  
8 affidavit, every lawyers' affidavit but  
9 mine. She took every lawyers' affidavit  
10 but mine as to what happened.  
11 Beer I do remember in the  
12 room and that's it. That's all I  
13 remember. That's what I remember.  
14 Q So is there anyone -- you  
15 know, of what we've looked at so far, is  
16 there anything that Mr. Tahir has written  
17 that is untrue?  
18 A Well, I don't know. I don't  
19 know. I'm not going to say that because  
20 I'll admit to the fact I said -- that I  
21 said excuse me, that's what I'll admit  
22 to. I don't know about the rest. I  
23 don't recall the rest. I do remember  
24 saying excuse me twice. I do -- I do  
25 recall -- I do recall being upset. I

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1 M.H. Capogrosso  
2 was.  
3 I do recall Beer being in  
4 the room, that's what I remember. I  
5 don't remember Calvo coming out, but  
6 maybe she did. I know Maher was not in  
7 the room, that I remember.  
8 Q So Mr. Tahir writes "A  
9 little later Mr. Meyers came in the room  
10 and" -- I can't actually quite read what  
11 he says.  
12 A I have to apologize --  
13 Meyers is asking me to apologize to  
14 Brody. Meyers is asking me to apologize  
15 to a guy that just told me to go fuck  
16 myself twice. That's what I have to do.  
17 Q And what happened then?  
18 A I got -- I got upset. I got  
19 to apologize to a guy that just told me  
20 to go fuck myself twice? Are you kidding  
21 me? I mean are you really kidding me?  
22 That's when I threw the punch at the  
23 wall. I didn't hit the wall. I wasn't  
24 charged. I wasn't arrested. That's when  
25 I really got -- he's asking me to

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1 M.H. Capogrosso  
2 apologize to a guy that just told me to  
3 go fuck myself twice.  
4 At that point Brody is  
5 standing outside the -- outside the room.  
6 He looks in and then he goes -- goes to  
7 Judge Gelbstein. I think that's what  
8 happened. I'm not sure.  
9 Q So Mr. Tahir writes that you  
10 said to Mr. Meyers that I'll send you to  
11 the hospital.  
12 A I never said that. I never  
13 would say that. There's no reason for me  
14 having -- being mad at Meyers. No reason  
15 for me. Meyers didn't do anything.  
16 Meyers just walked in the room. He's  
17 asking me to apologize which is just  
18 terrible because you know the truth  
19 doesn't matter here. You know, the truth  
20 doesn't matter as to what actually  
21 happened. He's asking me to apologize to  
22 a guy that just told me to go fuck myself  
23 twice.  
24 I never said I was going to  
25 put Meyers in the hospital, never. I

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1 M.H. Capogrosso  
 2 have no beef with Jeff Meyers. I mean we  
 3 weren't actually friends, but we did --  
 4 he was a funny guy, Jeff Meyers. He's a  
 5 funny guy to talk to, real funny guy. He  
 6 makes you laugh.  
 7 Q So --  
 8 A He's a nice --  
 9 Q So is --  
 10 A He's a funny guy.  
 11 Q So is Mr. --  
 12 A And I've been over to his  
 13 apartment. I mean we weren't friends.  
 14 We weren't close, but I was to his  
 15 apartment once. I did drive him home  
 16 several times after work because he  
 17 had -- his car was in the repair shop. I  
 18 did drive the man home.  
 19 But were we close, no, but  
 20 he was a funny guy to talk to.  
 21 Q So is Mr. Tahir lying here?  
 22 A What portion? Exactly what  
 23 portion?  
 24 Q When he says that you  
 25 threatened to put Mr. Meyers in the

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1 M.H. Capogrosso  
 2 hospital?  
 3 A Absolutely. I wouldn't  
 4 threaten. I don't believe in  
 5 threatening. If you're going to do  
 6 something, just do it. I don't threaten.  
 7 I would never threaten anybody like that.  
 8 First of all, I could get arrested for  
 9 that and you don't threaten.  
 10 I mean if I have to defend  
 11 myself in this instance I would just do  
 12 it, but I'm not going to threaten you  
 13 with that. I don't threaten. I don't  
 14 believe in that. If you have to defend  
 15 yourself, you defend yourself, but you  
 16 don't threaten.  
 17 Q So why would Mr. Tahir lie?  
 18 A I don't know. I don't know  
 19 if that's a lie. I don't remember -- I  
 20 don't remember saying that, absolutely  
 21 not. I don't know why he lied. Ask the  
 22 man.  
 23 Q Well, I can't. I think he  
 24 passed away.  
 25 A Yeah. I think he did. I

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1 M.H. Capogrosso  
 2 don't remember saying I would put  
 3 Meyers -- there's no reason to have a  
 4 beef with Meyers, none. Brody, yeah. I  
 5 have no reason to have an argument with  
 6 Meyers.  
 7 Over asking excuse me, at  
 8 Christmas time, can I please get my  
 9 coffee, this had to escalate to this.  
 10 Q Did Mr. Tahir want you gone  
 11 from the TVB?  
 12 A I don't know. I mean we  
 13 were friends at one point, but, you know,  
 14 I -- you know, I was making money down  
 15 there and, you know, this is a very  
 16 competitive business and you lose friends  
 17 over money. When everybody is, you know,  
 18 is chasing the same nickel, you lose  
 19 friends. There's only so many tickets  
 20 and only so much money to be made, you  
 21 know. And after a while if people aren't  
 22 making enough money and they see other  
 23 people making money, they get jealous and  
 24 attorneys, that it's, that's the game  
 25 down there.

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1 M.H. Capogrosso  
 2 You know, people come down  
 3 with cash in their hands, paying you 200,  
 4 150, 100, \$50 on a ticket. And they see  
 5 those transactions, people get jealous.  
 6 So do other attorneys want other  
 7 attorneys out, absolutely. It's a very  
 8 competitive business, it was all cash and  
 9 there's only so many tickets out there.  
 10 So maybe he wanted me out.  
 11 Maybe he wasn't making enough. I don't  
 12 know.  
 13 Q And he --  
 14 A I'm listening.  
 15 Q Lastly Mr. Tahir writes  
 16 "Mr. Capogrosso went out of the room and  
 17 started hitting the wall and steel  
 18 guards." Is that true?  
 19 A No. I don't recall doing  
 20 that. I do not recall doing that. I  
 21 remember I threw a punch at a wall in the  
 22 lawyers' room because the man just told  
 23 me to go fuck myself, but, no, I didn't.  
 24 I don't remember hitting a wall in the  
 25 DMV, I do not.

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1 M.H. Capogrosso  
 2 First of all, if I hit a  
 3 steel guard I would have broke my hand.  
 4 Q So is it your testimony that  
 5 you did not hit a wall that day, December  
 6 21, 2011?  
 7 A I don't recall, no.  
 8 Q Did you ever hit a wall or a  
 9 steel guard at the DMV?  
 10 A No. Now, if I -- no, no. I  
 11 was never accused of it by Judge  
 12 Gelbstein. Judge Gelbstein never told  
 13 me. If you tell me once, it would never  
 14 happen twice. You only have to tell me  
 15 once. You don't have to tell me twice.  
 16 If I did something wrong, you tell me  
 17 once, you never have to tell me twice.  
 18 Q So you never punched a wall  
 19 or any other object --  
 20 A Not that I recall.  
 21 Q -- at DMV?  
 22 A No.  
 23 Q Okay.  
 24 A Not that I recall, no. Like  
 25 I said, if it happened, you tell me once,

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1 M.H. Capogrosso  
 2 it never happens twice.  
 3 Q So let's move on to a new  
 4 document.  
 5 A I do not recall.  
 6 Q I'm sorry, Mr. Capogrosso, I  
 7 didn't quite catch that.  
 8 A I said no, I do not recall.  
 9 Q Mr. Capogrosso, can you see  
 10 this document?  
 11 A Yeah. Jeff Meyers. I used  
 12 to drive him home every afternoon.  
 13 Q And this is a document from  
 14 your production Bates numbered P-248;  
 15 correct?  
 16 A Yeah.  
 17 Q And do you recognize this  
 18 document?  
 19 A Yeah. It's Jeff. Jeff's a  
 20 funny guy.  
 21 Q And what is this document?  
 22 A It's his affidavit. Like I  
 23 said, everybody got a chance to write an  
 24 affidavit but me as to what happened,  
 25 everybody.

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1 M.H. Capogrosso  
 2 MR. THOMPSON: So,  
 3 Ms. MacDonald, can I --  
 4 A I never got a chance.  
 5 Q I'm sorry. I missed what  
 6 you said there, Mr. Capogrosso.  
 7 A I never got a chance to  
 8 write my affidavit as to what happened,  
 9 never got a chance and I was the one  
 10 there.  
 11 MR. THOMPSON: Ms.  
 12 MacDonald, let's mark this as Exhibit  
 13 11.  
 14 (The above-referred-to  
 15 statement was marked as Exhibit 11  
 16 for identification as of this date.)  
 17 Q And so here again Mr. Meyers  
 18 writes that he overheard a loud commotion  
 19 which he was told resulted in a tirade of  
 20 anti-Semitic slurs and that he later  
 21 implored Mr. Capogrosso to apologize.  
 22 Did he, in fact, ask you to  
 23 apologize?  
 24 A Yes, he did.  
 25 Q He writes that your "conduct

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1 M.H. Capogrosso  
 2 the rest of the day was one of abrasive  
 3 incoherent loud mutterings in which he  
 4 smashed his fist against concrete walls  
 5 and steel beams that are situated outside  
 6 the DMV hearing rooms, coupled with more  
 7 anti-Semitic comments. He kept saying  
 8 everyone here wants to fight me."  
 9 Does that refresh your  
 10 recollection at all?  
 11 A Yeah. That didn't happen.  
 12 It didn't refresh me because I never said  
 13 that. I was upset and I was mad. I  
 14 didn't hit any concrete walls or steel  
 15 beams. I don't recall making that  
 16 statement, no, I do not.  
 17 Was I upset, absolutely I  
 18 was upset. I just got blindsided by this  
 19 guy Yaakov Brody telling me to go fuck  
 20 myself twice, that I'm a Jew hater. For  
 21 what reason? Anti-Semite, for what  
 22 reason?  
 23 Q So Mr. Meyers is lying here;  
 24 correct?  
 25 A I never smashed my hand

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1 M.H. Capogrosso  
 2 against the wall, no. I think I would  
 3 have broke -- broke my hand if I hit it  
 4 or hit anything. A steel column or a  
 5 brick wall, I would have broke my hand  
 6 so, yes.  
 7 Q And why would Mr. Meyers  
 8 want to lie?  
 9 A I don't know. I never said  
 10 it. Maybe he's a -- I don't know why.  
 11 You ask him. Ask him.  
 12 Q Did --  
 13 A I know what I said. I was  
 14 very upset. But did I hit a brick  
 15 concrete wall, no.  
 16 Q Did Mr. Meyers want you  
 17 gone?  
 18 A I don't know. Ask Meyers.  
 19 We were all very competitive, believe me.  
 20 This was a competitive environment. It's  
 21 an all cash environment. Money gets  
 22 transferred -- transferred on the floor  
 23 all day between lawyers and motorists.  
 24 There's only so many motorists coming in.  
 25 If I'm not there, Meyers

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1 M.H. Capogrosso  
 2 makes more money. If Meyers is not  
 3 there, I make more money. That's just  
 4 how the game is played.  
 5 Q Later he writes that he was  
 6 sitting in the lawyers room across from  
 7 you, not engaging in any conversation  
 8 with him when he, Mr. Capogrosso, quote,  
 9 "suddenly became enraged and lunged at me  
 10 with his fists with great speed and  
 11 smacked his fists against his other hand  
 12 in a martial arts form coming within  
 13 12 inches of my face." Is that true?  
 14 A No. I threw a punch at a  
 15 wall.  
 16 Q What happened?  
 17 A I told you several times, I  
 18 threw a punch at a wall in the vicinity  
 19 of no one. I didn't hit the wall, I  
 20 wasn't charged with it and I was not  
 21 arrested. I was mad, I'm sorry, I was.  
 22 Throwing a punch in the air,  
 23 not in the vicinity of anyone I don't  
 24 think is any -- I wasn't charged and I  
 25 wasn't arrested. I'm sorry, I did not.

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1 M.H. Capogrosso  
 2 Q Mr. Meyers --  
 3 A I did not come anywhere  
 4 close to Jeff Meyers. If I did, I would  
 5 have been charged or arrested.  
 6 Q Mr. Meyers writes that you  
 7 said, quote, "I could put you in the  
 8 hospital with one just punch" -- "with  
 9 just one punch." Is that true, did you  
 10 say that?  
 11 A Well, did I say it? No, no.  
 12 Now do I have that ability, absolutely.  
 13 Do I have the ability, yes. Did I say  
 14 it, no. I don't threaten people. Do I  
 15 have that ability, yes. I've been  
 16 training in martial arts my whole life.  
 17 I've been in and out of boxing rings my  
 18 whole life. Can I -- do I have the  
 19 ability, yes. Did I say it, no. I don't  
 20 threaten.  
 21 Now, did he feel intimidated  
 22 by me, did he feel that, yeah, maybe he  
 23 did, I don't know. But did I say that --  
 24 Q Which martial arts -- I'm  
 25 sorry. I didn't mean to cut you off.

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1 M.H. Capogrosso  
 2 Did you have anything more  
 3 you wanted to say there?  
 4 A No.  
 5 Q Which martial art do you  
 6 train in?  
 7 A Kempo, K-E-M-P-O.  
 8 Q And you have a black belt in  
 9 it; is that true?  
 10 A Yes. A very high level  
 11 black belt.  
 12 Q What level?  
 13 A I'm a high level black belt.  
 14 Q But can you tell me what  
 15 level?  
 16 A I don't recall. I'm a high  
 17 level black belt.  
 18 Q You don't recall what level  
 19 of black belt you are?  
 20 A At a certain point, you  
 21 forget.  
 22 Q Do you have an estimate?  
 23 A No. I'm a high level black  
 24 belt. I've been training a long time.  
 25 Q Do you have any training in

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1 M.H. Capogrosso  
 2 other martial arts?  
 3 A Before Kempo I trained in  
 4 Mas Oyama and then in a boxing ring  
 5 and -- which I still was going to up to a  
 6 couple of years ago, which I had to stop,  
 7 but that's it.  
 8 Q So Mr. Meyers writes "He  
 9 kept repeating the phrase you people, you  
 10 people. He later told me he envisioned  
 11 all of us Jews and didn't mean to single  
 12 me out during his assault on me." Is  
 13 this true?  
 14 A You people? Now you're not  
 15 allowed to say you people. Isn't freedom  
 16 of expression? I don't recall saying  
 17 that. I mean he's offended because I say  
 18 you people? What's wrong with saying you  
 19 people? What is wrong with saying you  
 20 people? Maybe I was referring to lawyers  
 21 in general down there.  
 22 I've had lawyer after lawyer  
 23 make affidavit against me. Now I'm  
 24 making an anti-Semitic remark by saying  
 25 you people? Maybe he's a little

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1 M.H. Capogrosso  
 2 oversensitive. I never used the word --  
 3 I said you people, so what. I don't  
 4 recall saying it, but maybe I was talking  
 5 about the lawyers down there.  
 6 Q So Mr. Meyers writes "He  
 7 later told me that he envisioned all of  
 8 us Jews and didn't mean to single me out  
 9 during his assault on me." Did you say  
 10 that?  
 11 A I envisioned all of us and  
 12 didn't mean to -- all of us, did I say  
 13 the word Jew? I said all of us. Maybe  
 14 all your lawyers who don't want me. All  
 15 you lawyers, maybe that's what I said.  
 16 Did I use the word Jew, no.  
 17 He has the Jew in parenthesis. Go to all  
 18 the --  
 19 Q Okay.  
 20 A Go to all the complaints  
 21 against me from a client or a motorist,  
 22 is there any Jewish person that states I  
 23 made an anti-Semitic remark, no. I mean  
 24 come on.  
 25 Q So, Mr. Capogrosso, four of

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1 M.H. Capogrosso  
 2 your colleagues, your fellow attorneys --  
 3 A They're not my colleagues.  
 4 They're not my colleagues. Don't use  
 5 that word with me. They are not my  
 6 colleagues.  
 7 Q Why are they not your  
 8 colleagues?  
 9 A Because they don't -- they  
 10 don't write false defamatory statements  
 11 against somebody and give them no  
 12 opportunity to respond. They don't say  
 13 excuse me, go fuck yourself you Jew  
 14 hater. That's not a colleague. That's  
 15 not a colleague or -- I could go into  
 16 millions of things.  
 17 They're not colleagues.  
 18 They were attorneys I worked with down in  
 19 the Brooklyn TVB. I had to work  
 20 alongside. I didn't work with them.  
 21 They were there working. I was there  
 22 working. I was not their colleague. We  
 23 did not work together. We worked  
 24 separately and independently.  
 25 Q All right. Four of your

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1 M.H. Capogrosso  
 2 fellow attorneys at the Brooklyn TVB --  
 3 A Yes.  
 4 Q -- and they all remember the  
 5 incident the same way. Is that a  
 6 coincidence?  
 7 A I don't know. You ask them.  
 8 I don't think they remembered it all the  
 9 same day. There are discrepancies here,  
 10 many discrepancies. I pointed them out  
 11 to you. One -- one affidavit says I'm  
 12 attempting to sit down. I wasn't  
 13 attempting to sit down.  
 14 Q So if everything that is in  
 15 these affidavits were true and I know you  
 16 don't think it is, but if it were and you  
 17 had, in fact, said these things, thrown a  
 18 cup of coffee at Mr. Brody --  
 19 A Well, that's not true. I  
 20 threw a cup of coffee in the garbage can.  
 21 Get the facts straight.  
 22 Q I understand that you -- I  
 23 understand that you don't agree with the  
 24 facts, but I'm asking for the  
 25 hypothetical if these facts were true,

<p style="text-align: right;">Page 290</p> <p>1 M.H. Capogrosso</p> <p>2 would they justify excluding you from the</p> <p>3 TVB?</p> <p>4 A They're not true. They're</p> <p>5 not true, so there's no reason to exclude</p> <p>6 me. They're not true. I told you what</p> <p>7 happened that day. I was blindsided by</p> <p>8 Brody. I have a right to get mad. Told</p> <p>9 me to go excuse myself and go fuck myself</p> <p>10 twice. I have a right to get mad. It's</p> <p>11 a normal --</p> <p>12 Q I understand that you</p> <p>13 disagree with the fact --</p> <p>14 A I was blindsided and that's</p> <p>15 all that happened that day, that's it.</p> <p>16 Now, this is a competitive</p> <p>17 business, I told you that. These lawyers</p> <p>18 wanted me out. I was making money and</p> <p>19 every dollar I make is a dollar that they</p> <p>20 don't make. So the more attorneys they</p> <p>21 can get out of there, the better it is.</p> <p>22 Q Let me rephrase the</p> <p>23 question. If someone, not you, had used</p> <p>24 the phrase fucking Jew cunt, thrown a cup</p> <p>25 of coffee at somebody and tried to punch,</p>	<p style="text-align: right;">Page 292</p> <p>1 M.H. Capogrosso</p> <p>2 my affidavit as to what happened and he</p> <p>3 didn't do it, he didn't. If I'm punching</p> <p>4 a wall or a steel beam, let Gelbstein</p> <p>5 pull the videotape and he didn't do it.</p> <p>6 Q So let's move on to another</p> <p>7 exhibit here.</p> <p>8 A And I don't like</p> <p>9 hypotheticals that don't exist because</p> <p>10 the facts that you're presenting aren't</p> <p>11 true. I threw a cup, an empty cup in a</p> <p>12 coffee -- in a garage can that Brody was</p> <p>13 sitting next to. I didn't throw a punch</p> <p>14 in the vicinity of any attorney. I</p> <p>15 didn't hit any steel beams.</p> <p>16 If you had the opportunity</p> <p>17 to look at the videotape, the judge would</p> <p>18 have saw that and he didn't do it and he</p> <p>19 had an opportunity to do it.</p> <p>20 Q So, Mr. Capogrosso, can you</p> <p>21 see the document that I just put up?</p> <p>22 A Yes.</p> <p>23 Q And this document is Bates</p> <p>24 stamped DMV-0000224; correct?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 291</p> <p>1 M.H. Capogrosso</p> <p>2 you know, the air in front of somebody</p> <p>3 else's face and told them that they'd put</p> <p>4 them in the hospital, would that person</p> <p>5 be someone who could be excluded from the</p> <p>6 TVB?</p> <p>7 A No. I don't know. It</p> <p>8 didn't happen. I don't know. First of</p> <p>9 all, it didn't happen. I didn't throw</p> <p>10 a -- I told you the facts, so I'm not</p> <p>11 going to -- I'm not going to discuss a</p> <p>12 hypothetical, what could have or could</p> <p>13 not happen. Nobody wants to take my</p> <p>14 affidavit as to what happened here,</p> <p>15 nobody.</p> <p>16 Q Okay. Let's --</p> <p>17 A Everybody, you know,</p> <p>18 everybody here could have looked at the</p> <p>19 videotape if I'm punching a wall or</p> <p>20 punching a steel beam. Judge Gelbstein</p> <p>21 had the ability to pull the videotape and</p> <p>22 look at the videotape as to what happened</p> <p>23 and what happened that day and he didn't</p> <p>24 do it.</p> <p>25 He had the ability to take</p>	<p style="text-align: right;">Page 293</p> <p>1 M.H. Capogrosso</p> <p>2 Q Do you recognize this</p> <p>3 document?</p> <p>4 A Bushra Vahdat's affidavit.</p> <p>5 MR. THOMPSON: Ms.</p> <p>6 MacDonald, can I ask you to mark this</p> <p>7 as Exhibit 12?</p> <p>8 (The above-referred-to</p> <p>9 statement was marked as Exhibit 12</p> <p>10 for identification as of this date.)</p> <p>11 Q We'll just discuss this</p> <p>12 document and then we'll take a bit of a</p> <p>13 break because I know we are all a little</p> <p>14 tired.</p> <p>15 A I'm not tired. I'm not</p> <p>16 tired at all.</p> <p>17 Q So what is this document?</p> <p>18 A I think it's an affidavit</p> <p>19 from Bushra Vahdat.</p> <p>20 Q And Ms. Vahdat writes that</p> <p>21 when she was first appointed, the</p> <p>22 clerical staff approached her and handed</p> <p>23 her an affidavit signed by all of them</p> <p>24 requesting help dealing with an attorney.</p> <p>25 Do you think she's talking</p>

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1 M.H. Capogrosso  
2 about the petition that we looked at  
3 earlier?  
4 A Yeah. The petition that has  
5 no facts attached to it, just a whole  
6 bunch of signatures --  
7 Q And that --  
8 A -- which Bushra Vahdat never  
9 presented to me so I could address the  
10 issues and resolve them and tell me  
11 exactly what I did so I could resolve it  
12 and that's a judge.  
13 Q So she says that, in fact,  
14 she did talk with you and in the next  
15 paragraph she says and I'll highlight  
16 this --  
17 A What paragraph? Go ahead.  
18 Go ahead.  
19 Q "At that time I met with  
20 Mr. Capogrosso in Senior ALJ Gelbstein's  
21 office and we jointly had a conversation  
22 with Mr. Capogrosso."  
23 Do you remember that  
24 conversation?  
25 A No, no. She was there.

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1 M.H. Capogrosso  
2 Gelbstein told me you're not welcome here  
3 anymore after this incident on December  
4 22, which I was given no opportunity to  
5 respond to, none, none.  
6 She was there the next day  
7 with Gelbstein when I arrived. There was  
8 a police officer in the room, that I  
9 remember. Gelbstein is sitting down.  
10 She's sitting next to him. Gelbstein  
11 tells me you're not welcome here anymore.  
12 I said don't I have an opportunity to  
13 explain, I've been here since 2005. I  
14 don't have an opportunity -- I've been  
15 here since 2005 serving the Brooklyn  
16 community. I don't get an opportunity to  
17 explain what happened yesterday by way of  
18 affidavit, 2005.  
19 Gelbstein tells me --  
20 Q So I believe --  
21 A You have to let me finish.  
22 You're not welcome here  
23 anymore. You have to leave.  
24 Q So I believe she's referring  
25 to an earlier conversation that happened

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1 M.H. Capogrosso  
2 sometime before that. Do you remember  
3 having a conversation with Ms. Vahdat and  
4 Mr. Gelbstein prior to the time you were  
5 expelled in 2011?  
6 A No, no.  
7 Q Okay.  
8 A The only time I remember  
9 speaking to her was that time after this  
10 event.  
11 Q So she writes "We explained  
12 to him that his behavior was not  
13 professional and that if he did not stop  
14 his foul language and his threats we  
15 would have to take action and bar him  
16 from the TVB building. At that point he  
17 promised us that he would conduct himself  
18 according to the rules of conduct for  
19 attorneys."  
20 Did that conversation ever  
21 happen --  
22 A Well, what foul language?  
23 Q -- do you recall?  
24 A Tell me exactly what foul  
25 language I used and what threats? Was it

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1 M.H. Capogrosso  
2 the incident of December 22?  
3 Q Well, I --  
4 A I'd like to know.  
5 Q Well, Mr. Capogrosso --  
6 A What foul language did I  
7 use?  
8 Q -- the question was do you  
9 recall this conversation?  
10 A I recall -- the only  
11 conversation I remember with her was  
12 after this event.  
13 Q So this conversation that  
14 I've -- that we've highlighted here, you  
15 don't recall that ever happening; is that  
16 correct?  
17 A The only conversation I  
18 recall with this woman was the  
19 conversation I had with Gelbstein and her  
20 in the office after this.  
21 Q Okay.  
22 A Now, if you go back to the  
23 following paragraph, "He abused the  
24 clerks and followed a clerk in his car,"  
25 which is a complete lie being made by a

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1 M.H. Capogrosso  
2 judge, I followed a clerk in a car. Look  
3 at what George Hon wrote. If she's  
4 taking about George Hon, that's a  
5 complete lie.  
6 Q So, Mr. Capogrosso, the  
7 question is, it's just a narrow question,  
8 yes or no, do you recall the highlighted  
9 conversation in which you met with  
10 Ms. Vahdat and --  
11 A No. I've answered --  
12 Q -- Mr. Capogrosso?  
13 A I've answered that question.  
14 I recall one conversation --  
15 Q Okay.  
16 A -- with this woman.  
17 Q All right. So she says that  
18 you were warned that if there were  
19 further incidents that you would be  
20 expelled; is that true?  
21 A I remember one conversation  
22 with this woman with Gelbstein after the  
23 event of December 22, that's it.  
24 Q Were you -- had you ever  
25 previously been warned that if there were

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1 M.H. Capogrosso  
2 any further incidents you would be  
3 expelled?  
4 A Tell me what incidents  
5 you're talking about. Give me an  
6 opportunity to respond. So no, I do not.  
7 I don't know what incident she's talking  
8 about. The one with Brody where he told  
9 me to go fuck myself twice?  
10 Q So Mr. Capogrosso --  
11 A What incident is she talking  
12 about?  
13 Q Mr. Capogrosso, I'm not  
14 asking about an incident. I'm just  
15 asking for a narrow question. Were you  
16 warned that prior to December 21 that you  
17 might be expelled from the TVB if there  
18 were an incident?  
19 A What -- I had one  
20 conversation with this woman that I  
21 recall on December 22 when Gelbstein told  
22 me I had to leave because Brody  
23 approached me in the lawyers' room.  
24 Q Let me --  
25 A That's it.

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1 M.H. Capogrosso  
2 Q Let me rephrase the question  
3 and see if --  
4 A I'll say it again, I had one  
5 conversation with this woman, that's it.  
6 Q So did --  
7 A There's nothing in writing.  
8 Q Mr. Capogrosso --  
9 A That's all I had.  
10 Q -- let me see if I can  
11 clarify the question for you. Did anyone  
12 warn you prior to December 21, 2011 that  
13 you could be banned from the TVB for  
14 misbehavior?  
15 A No. I received no  
16 affidavits, no warnings, nothing to  
17 respond to, nothing. I wish you had. I  
18 wish you had given me these affidavits  
19 and given me an opportunity to respond  
20 and I would have responded, corrected it,  
21 apologized for it if I did something  
22 wrong. Tell me what I did and I would  
23 have addressed it, but I was given no  
24 opportunity.  
25 Q So Ms. Vahdat writes "On

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1 M.H. Capogrosso  
2 Wednesday, December 21, I received an  
3 e-mail from Danielle Calvo. She was very  
4 concerned that she had to go into the  
5 attorney room and stop Mr. Capogrosso  
6 from shouting religious obscenities.  
7 Mr. Capogrosso had thrown a coffee cup at  
8 another attorney, Mr. Brody, in the  
9 attorney room and after Mr. Brody had  
10 objected, Mr. Capogrosso started to  
11 scream and shout obscenities at everyone  
12 around him. A crowd had gathered and the  
13 entire courthouse was disturbed."  
14 And then she writes "An hour  
15 later I received another e-mail from  
16 Ms. Calvo stating that Mr. Capogrosso had  
17 tried punching one of the other  
18 attorneys, Mr. Mayer, but had stopped  
19 about an inch away from his face.  
20 Mr. Mayer was very upset and left the  
21 area in fear."  
22 Is that referring to the  
23 same incidents that we've been talking  
24 about in the previous four statements?  
25 A Yes, but Danielle Calvo

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1 M.H. Capogrosso  
2 never gave the full story. She only  
3 gives half the story. She doesn't give  
4 my version of what happened that day.  
5 Q So --  
6 A She only gives half a story,  
7 Danielle Calvo, half a story. What  
8 precipitated that event? First of all, I  
9 didn't punch Jeff Meyers or throw a punch  
10 in his vicinity. I did not, number one.  
11 Number two -- you turned it  
12 away. You turned away from it. She  
13 doesn't say what Brody said to me that  
14 day. Why is that left out? Why? Why is  
15 Calvo not asking me what happened? Like  
16 that all happened for no reason?  
17 She doesn't understand that  
18 Brody told me to go excuse myself, go  
19 fuck myself twice. She doesn't put that  
20 down.  
21 Q So you'll see here at the  
22 bottom of page 1 -- that's not a good  
23 highlight. I can do a better highlight  
24 than that.  
25 A You know, this is not a --

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1 M.H. Capogrosso  
2 Q Ms. Vahdat writes that  
3 "After taking everyone's statement  
4 Mr. Gelbstein and I met with  
5 Mr. Capogrosso. We asked him for his  
6 version of the prior day's events and he  
7 admitted to shouting the religious  
8 obscenities and trying to punch, as he  
9 put it, the air in front of Mr. Mayer's  
10 face. He was not remorseful and claimed  
11 that he needs to punch the walls in our  
12 office to let out steam. I also observed  
13 that his knuckles were severely bruised."  
14 So what --  
15 A All right. What do you  
16 want? What's the question? What's the  
17 question?  
18 Q My question is what do you  
19 recall from this meeting?  
20 A This meeting what I  
21 recall -- first of all, Gelbstein told me  
22 you're not welcome here. I was given no  
23 opportunity to respond by way of written  
24 affidavit as to what happened. I did not  
25 shout religious obscenities. Again, I

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1 M.H. Capogrosso  
2 was mad and I was upset. I don't recall  
3 what I said.  
4 I did not go anywhere near  
5 Meyers, nowhere near Meyers. I was given  
6 no opportunity to respond. I threw an  
7 empty coffee cup --  
8 Q Was she --  
9 A Let me finish. I threw an  
10 empty coffee cup --  
11 Q Sure.  
12 A -- not at Brody. I threw it  
13 in a can, in a can that's in the lawyers'  
14 room where I'm allowed to do that. I'm  
15 allowed to throw an empty coffee cup in a  
16 can in a lawyers' room. I'm allowed to.  
17 She doesn't write down what  
18 Brody said to me, that I'm a Jew hater  
19 anti-Semite go fuck yourself twice.  
20 My hands are bruised. I've  
21 been going to martial arts all my entire  
22 life. My hands are bruised. Sometimes I  
23 get a black eye. It happens. I accept  
24 the reality of that. It's not because I  
25 hit a wall at the DMV. Because I go to a

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1 M.H. Capogrosso  
2 boxing gym and a martial arts gym that it  
3 happens. That's when I --  
4 Q So, Mr. Capogrosso, she --  
5 you said you weren't able to put in your  
6 version of events, but she writes that  
7 she asked you for -- we asked him for his  
8 version of the prior day's events and he  
9 admitted shouting religious obscenities  
10 and trying to punch at and that you were  
11 not remorseful and claims that you needed  
12 to punch the walls in the office.  
13 So you were able to verbally  
14 give your version of events; weren't you?  
15 A No, I wasn't. First of all,  
16 it's a lie. First of all, it's a lie.  
17 And what she's stating here is -- you  
18 have to move this over -- up a little  
19 bit, down or up.  
20 Q Sure.  
21 A That I -- this is an  
22 absolute lie from a judge that I needed  
23 to punch a wall in the office to let off  
24 steam.  
25 I have to look at it. It's

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1 M.H. Capogrosso  
 2 still being blocked. I can't see it.  
 3 Q You want to go further up?  
 4 What are you looking for?  
 5 A It's blocking it. Further  
 6 up. Further up. Further up. Whatever  
 7 this -- just further up.  
 8 Q There's nothing further up.  
 9 A Well then further down.  
 10 This is the second lie this  
 11 woman is stating, that if I don't punch a  
 12 wall to let off steam I'm going to hit  
 13 somebody. That he needs to punch the  
 14 walls in our facility, that's the most  
 15 ridiculous statement that a lawyer would  
 16 ever make to a judge. That's a lying  
 17 lawyer acting as an administrative law  
 18 judge. I don't know the worst criminal  
 19 in the world that's going to make that  
 20 statement.  
 21 Did I use an obscenity when  
 22 Brody told me to go fuck myself, I  
 23 probably did. I don't recall. Did I  
 24 throw a punch, I admitted to throw a  
 25 punch, not at Meyers, at a wall. I

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1 M.H. Capogrosso  
 2 didn't hit the wall, I wasn't charged and  
 3 I wasn't arrested.  
 4 All right. Are my hands  
 5 bruised, yes. I told you the reasons  
 6 why.  
 7 Q So --  
 8 A But was I given an  
 9 opportunity to write a written affidavit,  
 10 no, never, as to what happened.  
 11 Q So, Mr. Capogrosso, I didn't  
 12 ask you about a written affidavit. I  
 13 asked you if you were able to verbally  
 14 say what your perspective was and it  
 15 sounds like you were; correct?  
 16 A No, I was not. Gelbstein  
 17 called me in the room. I was not. I'm  
 18 telling you these facts are not true.  
 19 Gelbstein called me in the room in the  
 20 presence of a police officer and -- and  
 21 told me you're not welcome here anymore.  
 22 That's what I remember. They accepted no  
 23 affidavit on my behalf as to what  
 24 happened, none.  
 25 So Brody's allowed to walk

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1 M.H. Capogrosso  
 2 into an attorneys' room in the morning,  
 3 tell a lawyer to go fuck himself, that  
 4 he's a Jew hater, anti-Semite and that's  
 5 allowed, that's acceptable.  
 6 Q So, Mr. Capogrosso, let me  
 7 ask you, isn't this basically the same  
 8 thing that happened when you were  
 9 expelled from the TVB in 2015, there was  
 10 an incident with other -- with someone  
 11 else, you dispute the version of events,  
 12 there was an allegation of violence and  
 13 then you're escorted out after TVB  
 14 leadership is --  
 15 A Well, tell me --  
 16 Q -- called?  
 17 A Well, tell me what I did.  
 18 Well, tell me what exactly I did on  
 19 May 11. Tell me exactly what I did  
 20 wrong. Now you can accuse me and -- tell  
 21 me. I turned around and look at a  
 22 security guard. I'll tell you what  
 23 happened on May 11. He's grumbling and  
 24 mumbling, shaking his head, crosses over  
 25 two security barriers, gets within three

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1 M.H. Capogrosso  
 2 inches of my face, ducks his head and  
 3 obscures his hand and I put my hand up  
 4 and I say back up, back up. That's what  
 5 happened on May 11.  
 6 It has nothing to do with  
 7 this incident. This is a security guard  
 8 who stole money from a client looking for  
 9 me and I reported it and then started to  
 10 harass and was getting away with it  
 11 because Judge Gelbstein allowed his  
 12 harassment and I told you all the  
 13 harassment that was going on, giving me  
 14 the sign of the cross, a spear hand,  
 15 hitting me from behind.  
 16 I put my hand up, back up,  
 17 back up. It's absolutely not the same.  
 18 Q All right.  
 19 A I got blindsided again by  
 20 this -- that's it. Go ahead.  
 21 MR. THOMPSON: So why don't  
 22 we take a 15 minute break, come back  
 23 at around 2:45. Is that okay with  
 24 everybody?  
 25 THE WITNESS: I don't need a

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1 M.H. Capogrosso  
 2 break, but if people need a break,  
 3 take a break.  
 4 MR. VIDEOGRAPHER: All  
 5 right. The time is 2:33. We are off  
 6 the record.  
 7 (A short recess was taken.)  
 8 MR. VIDEOGRAPHER: The time  
 9 is 2:48. We are on the record.  
 10 Q So, Mr. Capogrosso, I've put  
 11 up an exhibit here. Do you recognize  
 12 this document?  
 13 A Yes.  
 14 Q What is this document?  
 15 A Well, after the events with  
 16 Yaakov Brody in 2011, Gelbstein told me,  
 17 you know, you're not welcome here  
 18 anymore. I hired a lawyer, he  
 19 communicated with the DMV and the  
 20 Attorney General's office and he  
 21 represented me in an Article 78  
 22 proceeding.  
 23 Q Okay. And you see this  
 24 document is Bates stamped DMV-0000226;  
 25 correct?

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1 M.H. Capogrosso  
 2 A Yes.  
 3 Q And so this is a document  
 4 that was filed -- sent on your behalf by  
 5 your lawyer; correct?  
 6 A Yes, at that time, Chris  
 7 McDonough.  
 8 MR. THOMPSON: All right.  
 9 Can you mark this as Exhibit 13?  
 10 (The above-referred-to  
 11 letter was marked as Exhibit 13 for  
 12 identification as of this date.)  
 13 Q And is it safe to say that  
 14 this letter features your version of  
 15 events?  
 16 A Well, as I told them to my  
 17 lawyer.  
 18 Q And I want to go down to a  
 19 portion here at the bottom of the first  
 20 page, Mr. McDonough writes "One of the  
 21 managers of the center, Danielle, heard  
 22 the exchange, again Mr. Brody was yelling  
 23 at the cup" -- at the top of his lungs,  
 24 and came into the room. In front of  
 25 Mr. Capogrosso she stated now's our

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1 M.H. Capogrosso  
 2 chance to get rid of him, referring to  
 3 Mr. Capogrosso."  
 4 Can you tell me what's meant  
 5 by this?  
 6 A I don't know what's meant.  
 7 That's what she said. That's what she  
 8 said. It's exactly what she said, now's  
 9 our opportunity to get rid of him.  
 10 Q So --  
 11 A Her clerks didn't like me.  
 12 You saw the affidavits written by her  
 13 clerks with no facts supporting anything  
 14 I said or did and she stated that, now's  
 15 our chance to get rid of him and I took  
 16 the bait. I took the bait.  
 17 Q The Danielle mentioned here,  
 18 is that Danielle Calvo?  
 19 A Yes.  
 20 Q And so in your  
 21 interrogatories you mentioned an incident  
 22 when Ms. Calvo said now's our chance to  
 23 get rid of him. Is this the incident you  
 24 were referring to?  
 25 A Yeah, yes.

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1 M.H. Capogrosso  
 2 Q So let me ask you, when  
 3 we -- before the break when we were  
 4 talking about the incident with  
 5 Mr. Brody, why didn't you mention  
 6 Ms. Calvo coming in and saying that?  
 7 A When I said during the  
 8 incident with Mr. Brody? Because at --  
 9 at that -- you know, today is 2020. I  
 10 talked to this lawyer when, 2011, 2012,  
 11 eight years ago and eight years ago I  
 12 remember her saying it. Today, 2020, I  
 13 remember exactly what Brody said,  
 14 exactly.  
 15 So do I remember what she  
 16 said in 2012, no, but do I remember what  
 17 I stated to this lawyer, that's what I  
 18 said. If that's what I said, yes.  
 19 Q So sitting here today, do  
 20 you contend that Ms. Calvo said these  
 21 words?  
 22 A Yes, I do. I said them in  
 23 2012, what was it, January, a month after  
 24 this happened, yes, absolutely. I said  
 25 that a month, one month after this

<p style="text-align: right;">Page 314</p> <p>1 M.H. Capogrosso</p> <p>2 happened. It is now 2020, eight years.</p> <p>3 Q But sitting here today, you</p> <p>4 don't remember the circumstances in which</p> <p>5 she said that; is that correct?</p> <p>6 A Listen, I remember what -- I</p> <p>7 told you what happened that day. I said</p> <p>8 excuse me, can I get my coffee. Was I</p> <p>9 upset, yes. Was I -- was my voice loud,</p> <p>10 yes. Did she come --</p> <p>11 Q And why would she --</p> <p>12 A Did she come in, she</p> <p>13 probably did. Now that I'm looking at</p> <p>14 this, yeah, she probably, she came in. I</p> <p>15 said this --</p> <p>16 Q Why would she want to --</p> <p>17 A -- in 2012. I already told</p> <p>18 you that. Didn't you have all these</p> <p>19 affidavits you're showing me that her</p> <p>20 clerks didn't like me, didn't you show me</p> <p>21 all these affidavits?</p> <p>22 For what reason I don't</p> <p>23 know, other than the other attorneys were</p> <p>24 giving them money for Christmas, cash for</p> <p>25 Christmas, buying them breakfast in the</p>	<p style="text-align: right;">Page 316</p> <p>1 M.H. Capogrosso</p> <p>2 Tanya Rabinovich to the District</p> <p>3 Attorney's office and she was removed</p> <p>4 after that complaint and I know maybe</p> <p>5 they liked Tanya because she was doing</p> <p>6 business at the Brooklyn TVB with the</p> <p>7 clerks and maybe they were getting paid</p> <p>8 by her, I don't know, but those are my</p> <p>9 reasons.</p> <p>10 Q So you'll see,</p> <p>11 Mr. Capogrosso, I'm highlighting a</p> <p>12 paragraph about halfway down page 2 where</p> <p>13 your lawyer writes "Two weeks later</p> <p>14 Mr. Capogrosso contacted Judge Vahdat,"</p> <p>15 Vahdat it says, "and asked her to explain</p> <p>16 her determination. She advised that if</p> <p>17 Mr. Capogrosso was good and stayed quiet,</p> <p>18 she'd reconsider her determination three</p> <p>19 months later and at that time determine</p> <p>20 if he could go back into other Department</p> <p>21 of Motor Vehicle adjudication centers,</p> <p>22 but not Brooklyn South."</p> <p>23 Do you recall that</p> <p>24 conversation?</p> <p>25 A I might have called. I</p>
<p style="text-align: right;">Page 315</p> <p>1 M.H. Capogrosso</p> <p>2 morning, talking, you know, schmoozing</p> <p>3 with them for 20 minutes at the DMV.</p> <p>4 Talking.</p> <p>5 I was there to do a job,</p> <p>6 that's it. I don't know why they didn't</p> <p>7 like me, but the clerks didn't like me.</p> <p>8 I understood. Maybe I wasn't giving her</p> <p>9 money. Maybe the other attorneys were</p> <p>10 paying her. There's been allegations in</p> <p>11 the Brooklyn, in the TVB and I showed you</p> <p>12 those allegations, clerks getting paid</p> <p>13 often.</p> <p>14 I know the other attorneys</p> <p>15 there were giving these clerks money in</p> <p>16 cash for Christmas and the holidays, I</p> <p>17 know it. They were asking me how much</p> <p>18 they should give them. I know that</p> <p>19 because the other attorneys were asking</p> <p>20 me and I said I don't give them anything.</p> <p>21 I know other attorneys were</p> <p>22 buying them meals in the morning and</p> <p>23 buying them lunch. I didn't do it. I</p> <p>24 know that for a fact. Maybe that's why.</p> <p>25 I know I complained about</p>	<p style="text-align: right;">Page 317</p> <p>1 M.H. Capogrosso</p> <p>2 don't know. I was calling everybody</p> <p>3 after I got expelled. Everybody I was</p> <p>4 making phone calls to. After this</p> <p>5 incident where I was given --</p> <p>6 Q Did --</p> <p>7 A You have to let me finish.</p> <p>8 Q Sure.</p> <p>9 A After this incident I was</p> <p>10 given no opportunity to file an affidavit</p> <p>11 on my behalf and I was not allowed back</p> <p>12 in the Brooklyn TVB and I had all these</p> <p>13 clients whose money I was holding,</p> <p>14 Brooklyn clients who I was not showing up</p> <p>15 for cases on, that I was calling</p> <p>16 everybody to try to get some explanation</p> <p>17 of this.</p> <p>18 And I probably got through</p> <p>19 to her and if that's what she said,</p> <p>20 that's what she said. But that I had to</p> <p>21 work my way back in, what does that mean</p> <p>22 work my way back in? I have to be good</p> <p>23 and stay quiet? I don't understand what</p> <p>24 that means. Are you suppressing my</p> <p>25 freedom of expression? I'm not allowed</p>

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1 M.H. Capogrosso  
2 to talk as a lawyer? What do I have to  
3 do, stay quiet?  
4 Q So --  
5 A I don't know what that  
6 means --  
7 Q So do you --  
8 A -- stay quiet.  
9 Q Mr. Capogrosso, sitting here  
10 today, do you recall this conversation?  
11 A If I said that to my  
12 attorney in 2012, then that's a true  
13 statement. It's a true statement.  
14 Q Understood, Mr. Capogrosso,  
15 but the question was sitting here today,  
16 do you recall this conversation with  
17 Ms. Vahdat?  
18 A Today do I remember it? Let  
19 me think. I did try to make a lot of  
20 phone calls. I did make phone calls  
21 right after this happened. Do I recall  
22 making this exact conversation, I don't  
23 remember. I don't remember saying that  
24 exact conversation, but I remember if I  
25 said it to him at that time that that was

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1 M.H. Capogrosso  
2 the truth.  
3 Q Okay.  
4 A I had a big client case at  
5 that point. I had clients calling me,  
6 asking me where are you, what's going on.  
7 So was I trying to reach out to people,  
8 yes, I was, absolutely.  
9 MR. THOMPSON: So let's mark  
10 this as Exhibit 13 if we haven't  
11 already and I suspect you already  
12 did.  
13 Q And let's -- a couple of  
14 other quick questions. So you filed an  
15 Article 78 lawsuit; is that correct?  
16 A My attorney did on my  
17 behalf, Chris McDonough at that point.  
18 Q And how did the lawsuit  
19 proceed?  
20 A We went down to court, went  
21 before a judge, Judge Gelbstein was there  
22 and I was given the opportunity to go to  
23 a hearing a year from now, a year from  
24 the date -- a year, one year the judge  
25 said. We'll hear the case in a year she

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1 M.H. Capogrosso  
2 told me or you agree to take an anger  
3 management course.  
4 Well, I had a lot of  
5 clients. I had -- I forgot what that  
6 letter said, but it was a lot of clients.  
7 I had people calling me where are you,  
8 where are you, where are you, why aren't  
9 you showing up. I had clients calling me  
10 left and right. I felt an obligation to  
11 these clients because that's who I am.  
12 If a guy gives me money to do a job, I  
13 feel an obligation to do that job. I  
14 feel a very strong obligation to do it  
15 and to show up. I show up.  
16 And I said all right, if I  
17 have to wait a year in order for my case  
18 to be heard and that was a bad decision.  
19 I should have adjudicated this right at  
20 the start because Chris McDonough told me  
21 listen, if you go back down there, you  
22 sneeze the wrong way, they're going to  
23 throw you out. That's what he told me.  
24 Chris told me that and he's a good  
25 lawyer. He told me the truth. He said

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1 M.H. Capogrosso  
2 if you sneeze the wrong way, they're  
3 going to throw you out again. I said  
4 Chris, I got a ton of clients here and I  
5 feel an obligation.  
6 So I took the course rather  
7 than wait a year to get a hearing on the  
8 matter and I should have waited. I  
9 should have waited it out and I should  
10 have adjudicated this back then and I  
11 didn't do it.  
12 Q So what were the terms of  
13 the agreement that resolved the case?  
14 A I don't know. There were no  
15 terms. I was told to take an anger  
16 management course, that's it. I was told  
17 to take an anger management course,  
18 that's all I -- that's all Chris told me  
19 to do.  
20 Q Were you told that any  
21 violent or aggressive behavior would  
22 result in your removal from the TVB?  
23 A I was given a letter, two  
24 days before I was supposed to -- allowed  
25 to go back in, a letter that was mailed

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1 M.H. Capogrosso  
2 to my attorney two days before I was to  
3 go. I agreed to take an anger management  
4 course, that's all I agreed to, that's  
5 it. I signed no other stipulation. I  
6 agreed to nothing.  
7 I know what the rules are  
8 and how to act as a lawyer. I know that.  
9 Q Did --  
10 A But I didn't sign nothing.  
11 I agreed to take an anger management  
12 course and that's what I did. That's  
13 what I told the judge.  
14 Now, your office threw  
15 something at me after the fact. After  
16 this agreement that we reached your  
17 office puts all these conditions, which I  
18 adhered to anyway, but it was after the  
19 fact, after I already agreed only to take  
20 an anger management course.  
21 So go ahead.  
22 Q And what was the Attorney  
23 General's office's role in that lawsuit?  
24 A I assume they represented  
25 the DMV.

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1 M.H. Capogrosso  
2 Q Just for the litigation or  
3 for anything else?  
4 A I don't know. Chris would  
5 know that better than me, my attorney on  
6 the Article 78.  
7 Q I'm going to bring up an  
8 exhibit and, Mr. Capogrosso, can you see  
9 the exhibit here?  
10 A Yes.  
11 Q And this is marked in the  
12 defendants' production DMV-0000205;  
13 correct?  
14 A Yeah.  
15 Q And do you recognize this  
16 document?  
17 A No, I don't. I have  
18 probably seen it, but I got to see the  
19 whole thing. Can you scroll down? I've  
20 seen this.  
21 Q Sure.  
22 A Can you scroll down, please?  
23 Go ahead. Now can you go up, please?  
24 This is from who, Assistant  
25 Attorney General?

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1 M.H. Capogrosso  
2 Q It's from Serwat Farooq.  
3 A Fine. I didn't sign this,  
4 but fine. That was something that --  
5 Q So do you recognize --  
6 A Yeah. I do recognize it.  
7 It's a letter from --  
8 Q Do you recognize it?  
9 A It's a letter from Chris  
10 McDonough. Yeah, Chris is my lawyer.  
11 Jackie was the lady that worked under  
12 him.  
13 I do remember -- I do  
14 recognize this. This is a letter from --  
15 I don't know if I remember seeing this  
16 letter. I don't remember. I don't know.  
17 I know I had to take an anger management  
18 course. That's all I remember.  
19 I don't think I was ever  
20 shown this letter. Did I --  
21 Q Did you --  
22 A What's the marking on this?  
23 Q I'm not sure. This came  
24 from our production.  
25 A Then I don't -- I don't

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1 M.H. Capogrosso  
2 remember seeing this. I remember seeing  
3 that one letter that was -- that had the  
4 second half of this down. I only saw  
5 this second half on the letter that was  
6 sent to me, please be advised --  
7 Q Okay.  
8 A That's the portion I saw  
9 where it says please be advised. That's  
10 the letter I saw. I never saw this top  
11 portion of it. I saw this second half  
12 portion of it from please be advised down  
13 and that portion of it was sent to me in  
14 a letter with your letterhead on it  
15 without these first four paragraphs --  
16 without these first three paragraphs and  
17 it was sent to me two days before I was  
18 to go back in. That's what I remember.  
19 Q So you don't recognize this  
20 letter here?  
21 A I recognize the last two  
22 paragraphs where it says please be  
23 advised. That's what was sent to me.  
24 That's what I recognize.  
25 Q Okay.

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1 M.H. Capogrosso  
 2 A I don't remember the top  
 3 portion of it.  
 4 MR. THOMPSON: Ms.  
 5 MacDonald, we are skipping around a  
 6 little bit on the exhibits as we get  
 7 later in the day. So this is Exhibit  
 8 16 in what we sent to Veritext, but  
 9 please mark it down as the next  
 10 exhibit, which I think is Exhibit 14,  
 11 is that right?  
 12 MS. REPORTER: I have not  
 13 been keeping track because usually I  
 14 write the exhibits down. If you want  
 15 to just give me a minute.  
 16 MR. THOMPSON: We can mark  
 17 this as Exhibit 16 and we'll just  
 18 have a couple of exhibits with a gap.  
 19 (The above-referred-to  
 20 letter was marked as Exhibit 16 for  
 21 identification as of this date.)  
 22 A Like I said, I only remember  
 23 seeing the bottom half of that letter,  
 24 please be advised, that's what was sent  
 25 to me. That was sent to me two -- it was

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1 M.H. Capogrosso  
 2 sent to me by your office two days before  
 3 I was to go back to work, two days.  
 4 Q So, Mr. Capogrosso, I'm  
 5 showing you another document. Do you  
 6 recognize this?  
 7 A Yes, John McCann.  
 8 Q And this is from your  
 9 production Bates stamped P-28; correct?  
 10 A Yes.  
 11 Q What document is this?  
 12 A That's from the anger  
 13 management doctor I had to go to, anger  
 14 management course.  
 15 MR. THOMPSON: And so can we  
 16 mark this down, Ms. MacDonald, as  
 17 Exhibit 17.  
 18 (The above-referred-to  
 19 report was marked as Exhibit 17 for  
 20 identification as of this date.)  
 21 Q So, Mr. Capogrosso, what did  
 22 the anger management course consist of?  
 23 A I showed up at this man's  
 24 office. It was in the basement of his  
 25 house. There was couches, about 10 to 12

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1 M.H. Capogrosso  
 2 guys all sitting there, all looking  
 3 angry. I talked to a few of them. They  
 4 all had problems at work or with their  
 5 girlfriends or with their wives.  
 6 I got called into his  
 7 office. I sat down with him. He gave me  
 8 a book to read about I over E,  
 9 intelligence over emotion. He kept  
 10 telling me intelligence over emotion. I  
 11 went back there week after week. He kept  
 12 telling me intelligence over emotion, to  
 13 read a chapter in the book every week. I  
 14 did that.  
 15 He told me, you know, I felt  
 16 bad -- he told me he felt bad for me. He  
 17 told me I was wrongfully accused, he felt  
 18 bad for me and he said I completed the  
 19 course.  
 20 Q Do you feel like you got  
 21 anything out of the course?  
 22 A I over E, I'll always  
 23 remember I over E, intelligence over  
 24 emotion. I mean it's a little easier  
 25 said than done. You know, I'm an

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1 M.H. Capogrosso  
 2 emotional guy. It's a little easier said  
 3 than done, you know.  
 4 I over E is what he kept  
 5 telling me, I over E, so I try to think  
 6 before I act he told me. I said well,  
 7 it's easier said than done. When a guy  
 8 tells you go excuse yourself, go fuck  
 9 yourself twice, you know, you get upset  
 10 and that I'm a Jew hater. For what  
 11 reason I'm a Jew hater, I don't know,  
 12 so --  
 13 Q Sir, do you think --  
 14 A Go ahead.  
 15 Q Do you think you benefited  
 16 from the course at all?  
 17 A Absolutely. I went -- I  
 18 went to the Philippines. I had some -- I  
 19 took a break, I went to the Philippines  
 20 and I came back and I went back to work.  
 21 Q And --  
 22 A After I took the course I  
 23 went to the Philippines and I had some  
 24 fun and I came back.  
 25 Q And did taking the course

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1 M.H. Capogrosso  
 2 help you get along with co-workers at the  
 3 TVB?  
 4 A Well, it made me more  
 5 suspicious of everybody. I hate to say  
 6 that, but it did. I was never a  
 7 suspicious person. You know, I pretty  
 8 much -- you know, but you have to be  
 9 suspicious of everything you say and  
 10 everything you do. You have to look at  
 11 every word.  
 12 I was never like that. I  
 13 was very, you know, outgoing and, you got  
 14 to be careful everything you say and  
 15 everything you do, who's taking it the  
 16 wrong way, who am I insulting, who's  
 17 fearful of my presence.  
 18 I mean, you know, so then I  
 19 got fearful of everything I said or do.  
 20 Every time I walk into a courthouse I got  
 21 to look around like I'm in church, but it  
 22 is what it is. A clerk, if I look at a  
 23 clerk, I'm smirking at clerk. What the  
 24 hell is smirking at a clerk?  
 25 So now I'm fearful of

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1 M.H. Capogrosso  
 2 everything I do when I walk in a  
 3 courtroom, absolutely. You got to watch  
 4 every word you say. It's like you're  
 5 walking into church in the morning and  
 6 that's the way I act now when I go into a  
 7 courtroom. I don't talk to anybody. I  
 8 just do my business and that's it. I'm  
 9 very circumspect. I listen to every word  
 10 I say and I make sure it's not construed  
 11 in the wrong way, that's it.  
 12 Q All right. Let's close out  
 13 of this and I'm going to bring up another  
 14 document here.  
 15 MR. THOMPSON: And,  
 16 Ms. MacDonald, in case I didn't say  
 17 it already, let's have that previous  
 18 document marked Exhibit 16 (sic).  
 19 Q Mr. Capogrosso, do you  
 20 recognize this document?  
 21 A This is the document I  
 22 reviewed, this document that was sent to  
 23 me. This document was sent to me.  
 24 That's the document.  
 25 Q Okay. So what is this

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1 M.H. Capogrosso  
 2 document?  
 3 A That I took the anger  
 4 management course, which I did. I'll be  
 5 allowed to come back June 27. It's seven  
 6 days, I said two days, it's seven days  
 7 before I was -- that I get this document.  
 8 On June 20 I get this document, seven  
 9 days before I was supposed to go back in.  
 10 Q And --  
 11 A I already agreed just to  
 12 take an anger management course. You  
 13 want to throw all these other conditions,  
 14 that's fine because I adhered to all of  
 15 them, I did adhere to all of them, but I  
 16 said I'm going to -- I'm not going to  
 17 dispute it at this point because I'll --  
 18 you know, I'm not because I'm going back  
 19 to work in seven days, but I adhered to  
 20 all of it anyway.  
 21 But did I sign off on this  
 22 document, I never signed off to this  
 23 document.  
 24 Q And just for the record,  
 25 Mr. Capogrosso, this document was marked

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1 M.H. Capogrosso  
 2 P-143 in your production; correct?  
 3 A Yes.  
 4 MR. THOMPSON: And,  
 5 Ms. MacDonald, let me ask you to  
 6 please mark this as Exhibit 19.  
 7 (The above-referred-to  
 8 letter was marked as Exhibit 19 for  
 9 identification as of this date.)  
 10 Q So, Mr. Capogrosso, I'll --  
 11 you said that this is not something you  
 12 agreed to; correct?  
 13 A I didn't sign it, the  
 14 written stipulation. It was thrown at  
 15 me, thrown at me, mailed to me on June  
 16 20, 2012. I think I received it -- maybe  
 17 it was dated -- I think I only received  
 18 it two days before I was to go back in,  
 19 two days and it's the first time I saw  
 20 it. I agreed to take an anger management  
 21 course, which is what I did.  
 22 I never saw this document,  
 23 no, until two days before I could go  
 24 back. Now, did I adhere to everything,  
 25 yes. Did I see it, no.

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1 M.H. Capogrosso  
2 Q So, Mr. Capogrosso, you see  
3 where it says "Please be advised that if  
4 and when Mr. Capogrosso appears at a TVB  
5 office, he must strictly adhere to the  
6 standards of conduct required of  
7 attorneys appearing before State courts?  
8 Threatening conduct by Mr. Capogrosso,  
9 verbal threats of physical violence and  
10 verbal abuse, including the use of ethnic  
11 slurs, will not be tolerated." Do you  
12 see that?  
13 A Yes.  
14 Q And you read that prior to  
15 going back; correct?  
16 A And I adhered to all of it,  
17 all of it.  
18 Q And you see the passage that  
19 says "DMV reserves all rights to respond  
20 to future misconduct including, if  
21 warranted, by immediately and permanently  
22 barring Mr. Capogrosso from appearing on  
23 behalf of DMV licensees at TVB offices;"  
24 correct?  
25 A Well, you can say whatever

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1 M.H. Capogrosso  
2 you like. You can say whatever you like.  
3 Did I sign off on that statement, no.  
4 No, I did not sign.  
5 Q Did you sign off on --  
6 A I signed off on going to --  
7 Q Did you sign off --  
8 A I signed off on going to  
9 anger management, that it's. I agreed to  
10 take an anger management course, that's  
11 it, not all these conditions. I agreed  
12 to take an anger management course,  
13 that's all I agreed to do.  
14 You threw this at me. Your  
15 office threw this at me. I received this  
16 two days before I was to go back.  
17 After --  
18 Q Mr. Capogrosso --  
19 A Let me finish. After the  
20 expense of \$10,000 and an anger  
21 management course. It cost me 10 grand.  
22 After that expense, you throw this at me  
23 two days before.  
24 If you were going to put all  
25 these conditions, you should have told me

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1 M.H. Capogrosso  
2 up front and maybe I would have --  
3 Q Mr. Capogrosso, I'll  
4 represent to you that these conditions  
5 were included in the letter to your  
6 lawyer that we previously discussed at  
7 Exhibit 16.  
8 A The only time I saw that,  
9 that was on -- that letter is dated June  
10 20. That letter is dated June 20 and  
11 that's the letter I received.  
12 Q And I'll represent to you  
13 that the previous letter was dated May  
14 15, 2012, which was sent to your lawyer.  
15 A The letter I received was  
16 dated June 20. I was told to take an  
17 anger management course. Now, I adhered  
18 to all those conditions, but I agreed to  
19 take an anger management course, that's  
20 it.  
21 Q So hold on one second while  
22 I bring up another document.  
23 Mr. Capogrosso, can you see  
24 this document?  
25 A Yeah. I think I remember

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1 M.H. Capogrosso  
2 seeing that, yes.  
3 Q And what is this?  
4 A Stipulation of  
5 Discontinuance.  
6 Q And is this the document  
7 that ended the Article 78?  
8 A I believe so, yeah. I mean  
9 I hate to say the word I believe. Let me  
10 look at it.  
11 Yeah, that's Jackie's  
12 signature, yes.  
13 Q And so do you see anywhere  
14 on here where there's an anger management  
15 requirement?  
16 A No.  
17 Q I don't either.  
18 A No.  
19 Q So was anger management part  
20 of the deal to have you come back to the  
21 TVB?  
22 A The only deal I agreed to.  
23 I was -- the judge told me the day I went  
24 to court initially on this Article 78,  
25 the judge told me two things and he said

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1 M.H. Capogrosso  
 2 either -- she told me. She told me I'll  
 3 give you a date a year from now to argue  
 4 this case or go take an anger management  
 5 course. I told the judge I'll take an  
 6 anger management course because I threw a  
 7 punch at a wall and to me -- well,  
 8 that's -- I said let me take the anger  
 9 because that's -- I said let me take the  
 10 anger management course. I had a lot of  
 11 clients calling me left and right, I had  
 12 to get back to court and deal with this.  
 13 I took an anger management  
 14 course. That's what I agreed.  
 15 MR. THOMPSON: And,  
 16 Ms. MacDonald, let's please mark this  
 17 Stipulation of Discontinuance as  
 18 Exhibit 18.  
 19 (The above-referred-to  
 20 stipulation of discontinuance was  
 21 marked as Exhibit 18 for  
 22 identification as of this date.)  
 23 Q And now, Mr. Capogrosso, you  
 24 see how we are back at Exhibit 19?  
 25 A Yes.

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1 M.H. Capogrosso  
 2 Q So is it safe to say,  
 3 whether or not you feel that it's part of  
 4 the deal, that DMV warned you in this  
 5 letter that threatening conduct or  
 6 physical violence would result in your  
 7 expulsion?  
 8 A Listen, I agreed to take an  
 9 anger management course. You can say  
 10 whatever you like. Obviously if there's  
 11 threatening conduct and all this other  
 12 stuff, you have a right to do what you  
 13 have to do, but I have a right to defend  
 14 myself as to those allegations.  
 15 Now, Chris told me Mario, if  
 16 you go back there and you sneeze the  
 17 wrong way they're throwing you out again.  
 18 He told me that. So he said he didn't  
 19 trust Gelbstein at all. He didn't trust  
 20 Gelbstein as to what he was saying.  
 21 I said Chris, I took the  
 22 anger management course. It cost me a  
 23 lot of money. I told you it cost me  
 24 what, \$10,000, 7,500, plus I had to give  
 25 Chris his fee. I took it and that's what

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1 M.H. Capogrosso  
 2 I agreed to.  
 3 Now, did I -- did I not  
 4 reserve my right to question any removal?  
 5 I never, never disavowed my right to  
 6 question my removal, never, never. I  
 7 would never have signed off on that, that  
 8 I didn't have a right to respond or to  
 9 defend myself against these allegations.  
 10 I would never have -- I would never sign  
 11 off to anything like that, never.  
 12 I have a right to defend  
 13 myself in a courtroom against statements  
 14 and affidavits written against me. I  
 15 would never surrender that right on any  
 16 level.  
 17 Q So, Mr. Capogrosso, one more  
 18 quick question on Exhibit 19. Is this  
 19 the document that established your right  
 20 to go back to the TVB?  
 21 A No.  
 22 Q And I'll point to this last  
 23 part of the first paragraph where  
 24 Ms. Farooq writes that she is going to,  
 25 quote, "advise you that Mr. Capogrosso

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1 M.H. Capogrosso  
 2 may appear on behalf of his clients at  
 3 Traffic Violation Bureau offices as of  
 4 June 27, 2012."  
 5 A My attorney told me that I  
 6 could go back on June 27. My attorney  
 7 told me to go back. This letter was  
 8 thrown at me two days before I was to go  
 9 back from your office with all these  
 10 conditions.  
 11 I never, never surrendered  
 12 any right to go to trial or go to a  
 13 hearing and defend myself against any  
 14 accusations. That wouldn't make any  
 15 sense. Why would I do that? I'd  
 16 rather --  
 17 Q I think you did.  
 18 A I would rather go to the  
 19 Article 78 proceeding and give myself a  
 20 fair chance before a judge to hear the  
 21 case. I would never surrender that  
 22 right.  
 23 I was told by my lawyer  
 24 you're free to go back on June 27, which  
 25 is what I did. Your office sent me that

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1 M.H. Capogrosso  
 2 letter two days beforehand. That's when  
 3 I received it.  
 4 Q Do you think at this point  
 5 that the TVB wanted to get rid of you?  
 6 A Yeah and I think your office  
 7 didn't treat me fairly. That letter  
 8 or anything should have been sent to me a  
 9 hell of a lot earlier. Two days before  
 10 I'm going back, are you treating me fair?  
 11 Q Mr. Capogrosso, I'll  
 12 represent --  
 13 A I don't think --  
 14 Q -- to you that we did, in  
 15 fact, send exhibits.  
 16 A They did not treat me  
 17 fairly, no. Absolutely they wanted to  
 18 get rid of me, absolutely.  
 19 Q Okay. And so did you, in  
 20 fact, return to practice at the TVB on  
 21 June 27, 2012?  
 22 A Yes, yes.  
 23 Q So let's move on to a new  
 24 exhibit.  
 25 Mr. Capogrosso, do you

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1 M.H. Capogrosso  
 2 recognize this document?  
 3 A It's a Work Violence Report.  
 4 Q And what is it?  
 5 A It's a Work Violence Report  
 6 by one of your -- by one of your  
 7 representatives at the DMV, by -- Calvo's  
 8 name is on it. That's the name I  
 9 recognize.  
 10 Q Do you recognize Geri  
 11 Piparo?  
 12 A No.  
 13 MR. THOMPSON: All right.  
 14 Ms. MacDonald, can I ask you to mark  
 15 this as Exhibit 20?  
 16 (The above-referred-to  
 17 report was marked as Exhibit 20 for  
 18 identification as of this date.)  
 19 Q So, Mr. Capogrosso, do you  
 20 know who Geri Piparo is?  
 21 A No. I never heard --  
 22 Q I'll represent to you --  
 23 A -- of that name.  
 24 Q I'll represent to you that  
 25 she's one of the clerks and that she

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1 M.H. Capogrosso  
 2 signed the petition regarding you in  
 3 2011.  
 4 A All right. Fine.  
 5 Q On page 2 she writes "Mario  
 6 Capogrosso accused David Smart of looking  
 7 at him and there were heated words  
 8 exchanged. PO Nielsen intervened."  
 9 Can you tell me what  
 10 happened?  
 11 A Well, there was a hell of a  
 12 lot more than looking at me. When I came  
 13 back from the -- my anger management  
 14 course, which I came back in June, I had  
 15 to leave in December of 2011, I was told  
 16 by one of the clerks, Cindy, the lady I  
 17 was talking to who liked me I guess a  
 18 little bit, that a motorist came down  
 19 looking for me, came down looking for me  
 20 to give me a fee because he owed me money  
 21 on a case and that she was told by the  
 22 motorist that David took the fee. It was  
 23 \$80 and a \$150 fee, right. So I report  
 24 that to Judge Gelbstein because he stole  
 25 it. You steal money, you should get

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1 M.H. Capogrosso  
 2 reported.  
 3 After that there was a  
 4 series of harassments by David Smart  
 5 against my person. I've gone into them  
 6 with you. I've gone into them. He's  
 7 pushed me from behind. He gave me the  
 8 sign of the cross and the spear hand one  
 9 day. He would get in my face, a couple  
 10 of inches, but the same David Smart that  
 11 approached me on May 11 after he stole  
 12 the money and I reported him. Get in my  
 13 face. What's the problem? Fuck you,  
 14 you're the problem. Again, fuck you,  
 15 you're the problem, two, three, four  
 16 times.  
 17 So I tell -- I must have  
 18 told this woman, you know, this guy  
 19 doesn't want to leave me alone. Doesn't  
 20 want to leave me alone. Why do I have  
 21 to --  
 22 Q And is this --  
 23 A -- be harassed because I  
 24 report a theft which should have been  
 25 reported, which is the right thing to do,

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1 M.H. Capogrosso  
2 so that's what was going on.  
3 Q Is this incident, May 5th of  
4 2014, is this the first incident or  
5 confrontation you had with Mr. Smart?  
6 A No, no. Like I said, I  
7 walked away a million times. I have no  
8 reason to have a beef with a security  
9 guard. I'm a lawyer. I got two licenses  
10 I have to protect. I spent a lot of  
11 money, a lot of time getting this  
12 license. I don't need a beef with a  
13 security guard. I don't need it. I  
14 walked away.  
15 Q What was --  
16 A Let me finish. It's not the  
17 first time, no, not the first time.  
18 Q When was the first time?  
19 A June of 2012. As soon as I  
20 got back in, he comes up from behind me  
21 and pushes me from behind. He's like --  
22 pushes me.  
23 I tell Gelbstein about it.  
24 He looks at the security tape I think and  
25 he says you don't need this down here. I

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1 M.H. Capogrosso  
2 said the man just assaulted me from  
3 behind. Are you going to do anything  
4 about it? And that was the end of it.  
5 He pushes me from behind, June of 2012  
6 when I -- first week I was back in there.  
7 I reported it to Gelbstein.  
8 He looked at the videotape. He did  
9 nothing about it. Did I go to the cops,  
10 no, I don't go to the cops. I'm not  
11 going to complain about a cop and get a  
12 guy arrested. I'm not doing it. That's  
13 not who I am.  
14 But should he have been  
15 removed from the DMV at that point in  
16 time, absolutely and he wasn't.  
17 Q Mr. Capogrosso, I'm bringing  
18 up another document.  
19 And can you see the  
20 document? Can you see it okay,  
21 Mr. Capogrosso?  
22 A Yeah. I can't see the whole  
23 thing. You have to go down.  
24 Q Yeah, sure. Actually, let  
25 me zoom out a little bit. Is that

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1 M.H. Capogrosso  
2 easier?  
3 A Who wrote this? Wanda,  
4 Wanda was a clerk.  
5 Q And this document is marked  
6 or is Bates stamped DMV-0000061; correct?  
7 A Yeah, right. She's accusing  
8 me -- okay. Go ahead.  
9 Q Do you recognize this  
10 document?  
11 A Yeah. I see this document,  
12 yeah.  
13 Q And what is it?  
14 A Wanda is accusing me of  
15 telling a motorist to give a clerk an  
16 attitude. I don't understand that. I  
17 don't understand how I could tell a  
18 motorist to give a clerk an attitude. I  
19 mean that's just ridiculous.  
20 MR. THOMPSON: Can we mark  
21 this as Exhibit 21?  
22 (The above-referred-to  
23 statement was marked as Exhibit 21  
24 for identification as of this date.)  
25 A I'm telling a motorist to

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1 M.H. Capogrosso  
2 give a clerk an attitude? How do you  
3 tell a motorist to give a clerk an  
4 attitude?  
5 This is the clerks I had to  
6 deal with. I told the guy that I'm not  
7 here to give -- now go ahead.  
8 Q So what's your recollection  
9 of what happened in this incident on  
10 October 29, 2014?  
11 A I never saw -- I was never  
12 addressed with this issue. I never saw  
13 this until I received this affidavit from  
14 your office.  
15 But she's telling me that I  
16 told a guy that I'm -- to encourage the  
17 motorist beforehand to give me an  
18 attitude is what she's accusing me of  
19 doing. Me, a lawyer, is telling a  
20 motorist to go to the clerk and give the  
21 clerk an attitude.  
22 Q Now what --  
23 A That's what your clerks are  
24 accusing me of.  
25 Q But, sir, do you have,

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1 M.H. Capogrosso  
 2 sitting here today at the deposition, do  
 3 you have any independent recollection of  
 4 this?  
 5 A No, absolutely not because I  
 6 wouldn't even know how to say that to a  
 7 motorist. Go to a clerk -- no, I have no  
 8 knowledge of this. I would not know how  
 9 to tell --  
 10 Q So --  
 11 A I would not know how to tell  
 12 a motorist to go give a clerk an  
 13 attitude. I mean this is a clerk whose  
 14 got some issues. I was --  
 15 Q So did this happen?  
 16 A I don't know. No, it didn't  
 17 happen, number one and it's ludicrous.  
 18 How do you tell a motorist to give a  
 19 clerk an attitude and these are the  
 20 clerks I got to deal with.  
 21 Q So is it Ms. Alford lying  
 22 here?  
 23 A I did not tell a motorist to  
 24 give a clerk an attitude. I did not.  
 25 That's a ridiculous friggon -- that's

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1 M.H. Capogrosso  
 2 a -- excuse my language. That's a  
 3 ridiculous accusation against me,  
 4 ridiculous, but these are the type of  
 5 clerks I have to deal with.  
 6 Q So the question was do you  
 7 believe that she's lying here?  
 8 A I did not tell a motorist to  
 9 give a clerk an attitude. I did not.  
 10 Now --  
 11 Q I understand that, but yes  
 12 or no?  
 13 A Maybe she -- I don't know  
 14 what she's thinking, but I did not tell a  
 15 clerk -- a motorist to give a clerk an  
 16 attitude. First of all, I don't even  
 17 know how to do that or how a motorist  
 18 would know how to do that. How would a  
 19 motorist know how to give a clerk an  
 20 attitude?  
 21 Q So why would she write this?  
 22 A I don't know. I don't know.  
 23 They didn't want me there. I don't know.  
 24 Maybe you got a bunch of crazy clerks  
 25 down there.

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1 M.H. Capogrosso  
 2 Q Did Ms. Alford not want you  
 3 there?  
 4 A Who's Ms. Alford? Wanda?  
 5 Q Wanda Alford who --  
 6 A I don't know.  
 7 Q -- wrote the letter.  
 8 A I don't know. This is the  
 9 first -- the first time I saw this  
 10 complaint that I have an opportunity to  
 11 respond to is when you sent it to me and  
 12 I don't even know how to respond to it.  
 13 I wouldn't know how to deal with this.  
 14 I'm accused of telling a motorist to give  
 15 a clerk an attitude.  
 16 MR. THOMPSON: And,  
 17 Ms. MacDonald, if we didn't do that  
 18 already, let's mark that as Exhibit  
 19 21.  
 20 A Is that threatening conduct  
 21 or verbal abuse?  
 22 Q Mr. Capogrosso, can you see  
 23 the document that I just put up?  
 24 A Yeah. This is something  
 25 David Smart wrote.

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1 M.H. Capogrosso  
 2 Q Do you recognize this?  
 3 A Yeah. I saw it when you  
 4 gave it to me, yes. He signed something.  
 5 It's an unsigned note of David Smart.  
 6 Q And this is -- this document  
 7 is marked Gelb-0000059; correct?  
 8 A Yeah.  
 9 Q What is this document?  
 10 A Some type of complaint by --  
 11 on February 3, I don't know what year,  
 12 9:15 a.m. Smarts telling me that I  
 13 deliberately walked into him. I am --  
 14 there's a board --  
 15 Q Mr. Capogrosso, I'm sorry,  
 16 we lost your audio for a second there.  
 17 Can you restate that?  
 18 A Yeah. This is -- I'm being  
 19 accused -- I'm being accused of walking  
 20 into a security guard. Now, at the DMV  
 21 there's a board that was hanging up when  
 22 I was there and every day there was a  
 23 calendar on the board as in most  
 24 courthouses that tell you where each case  
 25 is going to be heard.

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1 M.H. Capogrosso  
 2 I go in the morning, right.  
 3 David would put up or somebody would put  
 4 up the calendar. Most times it was David  
 5 Smart and in the afternoon he would take  
 6 it down. So I have to go to the calendar  
 7 to look at the calendar because in the  
 8 morning there's a lot of people and  
 9 everybody's rushing around here and  
 10 there. You have to know what courtroom  
 11 to go in.  
 12 So I'm walking to the  
 13 calendar and he tells -- and I'm trying  
 14 to go to the calendar and he tells me I  
 15 deliberately walked into him. I mean  
 16 that's just stupid. We are both working  
 17 in the same location. We both have to go  
 18 to the calendar. He has to hang it up  
 19 and I have to look at it.  
 20 I'm deliberately walking  
 21 into a security? I have to work in this  
 22 courthouse. I'm sorry. As a lawyer I  
 23 have to go to the board and look at the  
 24 docket to see where my case is being  
 25 held. This is what I'm being accused of,

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1 M.H. Capogrosso  
 2 deliberately walking into a guard.  
 3 We work in the same  
 4 building. We both have to go to the --  
 5 to the board in the morning, to the  
 6 docket. He has to hang it up. I got to  
 7 look at it to see where my case is.  
 8 That's all I have to say about this.  
 9 Q So is Mr. Smart lying?  
 10 A That I deliberately walked  
 11 into him, yes, absolutely. I don't  
 12 need --  
 13 Q Why is he --  
 14 A -- this beef with a security  
 15 guard. I don't need a beef with a  
 16 security guard at a courthouse that I'm  
 17 trying to make a living at.  
 18 Q And why do you think he's  
 19 lying?  
 20 A I don't know. Why would I  
 21 deliberately walk into a security -- I'm  
 22 going to the board to check the calendar.  
 23 Q Did he have any animis  
 24 towards you?  
 25 A I told you, I reported to

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1 M.H. Capogrosso  
 2 Gelbstein that he stole \$80 and a \$150  
 3 fee and I found that out when I got back  
 4 after taking my anger management course.  
 5 I told you that. Cindy told --  
 6 Q And --  
 7 A And then I wrote to the  
 8 motorist. The motorist confirmed it. I  
 9 didn't go to the police because that's  
 10 not what I do. I'm not going to get the  
 11 guy arrested. Like maybe I should have  
 12 looking back on this thing now.  
 13 Q And would you have --  
 14 A Gelbstein investigated it.  
 15 Gelbstein admits to me that Smart said he  
 16 took the money and he gave it to me,  
 17 which is an absolute lie. First of all,  
 18 I authorized nobody to take money on my  
 19 behalf, collect money on my behalf. He  
 20 had no authority to collect a fee on my  
 21 behalf, this security guard, Smart and  
 22 Gelbstein believes it, that he gave me  
 23 the money. Gelbstein believes this.  
 24 I told him the security  
 25 guard had no authority to take the money,

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1 M.H. Capogrosso  
 2 but he allows the security guard to stay  
 3 and then the harassment started and I  
 4 guess this is one of the ways he did it.  
 5 He's saying I deliberately walked into  
 6 him.  
 7 Q And would it be correct to  
 8 say that you feel that Mr. Smart had a  
 9 grudge against you after this?  
 10 A Absolutely, absolutely he  
 11 had a grudge. He wouldn't let it go. If  
 12 you steal, I'm going to report it. It's  
 13 a theft. It's a theft. I am a lawyer.  
 14 I am an officer of the court. You steal,  
 15 you're not stealing from me. You're  
 16 stealing from that cab driver who \$80 is  
 17 a lot of money to.  
 18 Q And do you believe that he  
 19 wanted -- not he. Do you believe that  
 20 Mr. Smart wanted to get rid of you --  
 21 A Absolutely.  
 22 Q -- because of this threat?  
 23 A Absolutely. He wouldn't  
 24 start the harassment. I told you all the  
 25 incidents. He gets in my face. What's

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1 M.H. Capogrosso  
 2 the problem? Fuck you, you're the  
 3 problem. I told you that.  
 4 Q One last question.  
 5 Mr. Capogrosso, this note is marked  
 6 February 3 at 9:15 a.m. Do you recall  
 7 what year this was?  
 8 A It was after. I don't know.  
 9 It's the first time -- the only time I  
 10 saw this note is when you produced it to  
 11 me in discovery. I assume -- I assume it  
 12 was after the incident with Brody because  
 13 that's when I reported the theft.  
 14 Q After the incident with?  
 15 I'm sorry, I didn't quite hear that.  
 16 A With Brody. It was after I  
 17 came back in June of 2012 --  
 18 Q Okay.  
 19 A -- because that's when I  
 20 reported the theft.  
 21 Q So, Mr. Capogrosso, I'm  
 22 going to bring up --  
 23 MR. THOMPSON: Oh, and  
 24 actually before we are done, I don't  
 25 know if I marked that, but

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1 M.H. Capogrosso  
 2 Ms. MacDonald if we didn't please  
 3 mark that as Exhibit 22, that note.  
 4 (The above-referred-to note  
 5 was marked as Exhibit 22 for  
 6 identification as of this date.)  
 7 Q Mr. Capogrosso, do you see  
 8 the document that I just put up?  
 9 A Yeah, Paul Perez.  
 10 Absolutely, I remember this one.  
 11 Q And do you recognize this  
 12 document?  
 13 A Well, I recognize it because  
 14 you produced it. I never saw it before.  
 15 Just the fact that you produced it.  
 16 Q And this document is marked  
 17 Gelb-0000058; correct?  
 18 A Yes.  
 19 Q And it's your testimony that  
 20 you never saw this document before the  
 21 case; correct?  
 22 A I never saw any of these  
 23 affidavits before this case.  
 24 MR. THOMPSON: Ms.  
 25 MacDonald, can I ask you to mark this

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1 M.H. Capogrosso  
 2 as Exhibit 23?  
 3 (The above-referred-to  
 4 statement was marked as Exhibit 23  
 5 for identification as of this date.)  
 6 Q And, Mr. Capogrosso, who is  
 7 Paul Perez?  
 8 A What I remember, he was a  
 9 motorist that came down to the DMV. I  
 10 did not represent him on any hearings  
 11 even though there's a work -- there's an  
 12 incident report that says I represented  
 13 him in court. I never represented -- and  
 14 it could have been investigated and it  
 15 wasn't. I never represented him on his  
 16 hearing.  
 17 He had a hearing before  
 18 Judge Walters, that I know because I was  
 19 sitting outside the courtroom. He came  
 20 outside the courtroom while I was sitting  
 21 on the bench and I think he was with his  
 22 girlfriend and they asked me if I'm a  
 23 lawyer because I'm sitting there with a  
 24 suit on and my calendar and can you help  
 25 him write an appeal. I said I'll take

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1 M.H. Capogrosso  
 2 the appeal. He was very nice when I  
 3 first met him, very nice. Sat down, I  
 4 said I'll take it on appeal. Collect a  
 5 fee on the appeal.  
 6 I never represented him in a  
 7 courtroom. I did not get his license  
 8 suspended. I was not the -- I was not in  
 9 the courtroom with him. I did not argue  
 10 his case. I was hired to write the  
 11 appeal.  
 12 The next day he comes down.  
 13 He finds out that his license got  
 14 suspended. This guy had a terrible  
 15 license, terrible. He comes in, comes at  
 16 me, starts yelling at me. I said here,  
 17 take your appeal -- take your appeal and  
 18 I gave him his money back.  
 19 No. First thing he says  
 20 was -- is that he curses me out. He says  
 21 I'm going to cut you with a knife and  
 22 slash the tires of your car. I said I  
 23 didn't get your license suspended. I'm  
 24 hired to write the appeal. I'm going to  
 25 cut you -- his exact words, I'll never

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1 M.H. Capogrosso  
 2 forget it, I'm going to cut you with a  
 3 knife and I'm going to slash tires of  
 4 your car.  
 5 At that point I gave him his  
 6 money back on his appeal and he keeps  
 7 saying it to me, I'm going to cut you  
 8 with a knife, I'm going to slash the  
 9 tires of your car.  
 10 I look around for the  
 11 security guard. He's nowhere to be  
 12 found, Smart. Smart's not there. The  
 13 police officers are there, but they're  
 14 not doing anything about this.  
 15 At that point in time  
 16 Gelbstein told me if you got an unruly  
 17 client -- and I don't know if this guy's  
 18 got a knife on him or not, I really don't  
 19 know because there's no -- there's no  
 20 metal detectors coming into DMV. You  
 21 just walk in and out. You can carry  
 22 anything you want, guns, knives,  
 23 whatever.  
 24 Gelbstein told me if you got  
 25 a bad client, unruly client, you got to

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1 M.H. Capogrosso  
 2 go outside the courthouse and speak to  
 3 him outside, which I proceeded to do with  
 4 this guy. He just threatened me twice,  
 5 he's going to cut me with a knife and  
 6 slash the tires of my car. I said let's  
 7 go outside, we got to talk, which is what  
 8 Gelbstein told me to do and I obeyed.  
 9 That's what happened here.  
 10 And he didn't go out -- he  
 11 walked halfway and he turned around. I  
 12 obeyed what defendant Gelbstein told me  
 13 to do. I'm not going to be threatened  
 14 with a knife and tell me the tires of my  
 15 car were going to be slashed. The  
 16 security guard is nowhere to be found,  
 17 Smart. The police officers don't want to  
 18 get involved. It's not going to happen  
 19 to me.  
 20 And I obeyed what Gelbstein  
 21 did. I went out -- he said talk to him  
 22 outside. I said let's go talk outside,  
 23 which is what I did. That's what  
 24 happened here. And it could have been  
 25 investigated, that I was not in this

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1 M.H. Capogrosso  
 2 courtroom, I did not argue his case, I  
 3 did not get his license suspended. I did  
 4 not.  
 5 And the facts of this case  
 6 were never investigated, nor was my --  
 7 nor was I ever given an opportunity to  
 8 state what happened in this case.  
 9 Apparently --  
 10 Q Mr. Capogrosso --  
 11 A -- but Perez made a  
 12 statement.  
 13 Go ahead.  
 14 Q Mr. Capogrosso, when Perez  
 15 writes that you were taking on a case for  
 16 him and, quote, "didn't live up to his  
 17 responsibility," what does he mean?  
 18 A I have no idea. I don't  
 19 know. I don't know. The next day he  
 20 comes in, the day after he got suspended  
 21 in court, the day after Walters suspended  
 22 his license he comes in and tells me I'm  
 23 going to cut you with a knife and slash  
 24 the tires.  
 25 I didn't argue your case,

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1 M.H. Capogrosso  
 2 Mr. Perez. I didn't argue your case.  
 3 Here's your money back on the appeal. I  
 4 don't want you as a -- take your money  
 5 back. I'm not going to -- I'm not  
 6 going -- I'm not going to be threatened  
 7 by a client with a knife.  
 8 Q Do you think -- do you think  
 9 he blamed you for the loss of his case at  
 10 the TVB?  
 11 A I think he might have been  
 12 on drugs, seriously on drugs this guy  
 13 because when I met him for the first  
 14 time, he was a normal nice guy, normal,  
 15 had a normal conversation because I could  
 16 size up a guy pretty quickly. I've been  
 17 dealing with these clients for a long  
 18 time. I can size you up. He was normal  
 19 and nice. His girlfriend was nice.  
 20 The next day I'm cutting you  
 21 with a knife and I'm slashing the tires  
 22 of your car. That's the incident.  
 23 That's what happened.  
 24 Q So his version of events  
 25 says that he told you he wanted another

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1 M.H. Capogrosso  
 2 lawyer and his money back and that you  
 3 told him to go fuck myself and that we  
 4 can take it outside.  
 5 A I gave him the --  
 6 Q Is that true?  
 7 A No. First of all, I didn't  
 8 argue the case. He hired me on the  
 9 appeal. He hired me on the appeal. I  
 10 gave him his money back right away. I  
 11 gave him his money back. I took --  
 12 Q Did you tell him --  
 13 A Let me finish. If I didn't  
 14 give him money back, right, because every  
 15 time I give money back I take the receipt  
 16 back. He would have produced my receipt  
 17 and he doesn't produce it. I give him a  
 18 business card with my receipt on the  
 19 back. I sign my name to it. I tell him  
 20 the total amount, the amount paid.  
 21 But if I give you the money  
 22 back, which I did here, he gives me the  
 23 receipt back this way I'm not going to --  
 24 this way he has proof -- I have proof I  
 25 gave him the money back, he no longer has

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1 M.H. Capogrosso  
 2 my receipt, right.  
 3 He doesn't produce the  
 4 receipt here. I gave him my money back  
 5 and he, like he said --  
 6 Q So --  
 7 A -- he's going to cut me with  
 8 a knife and slash the tires of my car.  
 9 Q Mr. Capogrosso, did you tell  
 10 him to go fuck himself?  
 11 A I don't remember what I  
 12 said. After you tell me to go -- after  
 13 you tell me you're going to slash my  
 14 tires, he's going to cut me with a knife  
 15 and slash the tires of my car, I might  
 16 have said that. I might have told him  
 17 fuck, yes, I might have said something  
 18 like that.  
 19 Q Did you tell him that you'd  
 20 take it outside?  
 21 A I looked around for the  
 22 security -- no. What I said was this and  
 23 I'll tell it exactly again, I said here's  
 24 your money back. He came in the next  
 25 day. There was no way I could have

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1 M.H. Capogrosso  
 2 written the appeal in a day anyway. Take  
 3 your money back. Because I didn't mess  
 4 up his case in any way. I didn't mess it  
 5 up because I didn't argue it and I was  
 6 given no opportunity to argue the appeal,  
 7 so I messed up nothing. I messed up  
 8 nothing.  
 9 He came back the next day  
 10 and if you investigated the facts of this  
 11 you would have seen it, at that -- at  
 12 which point in time he tells me I'm going  
 13 to cut you with a knife and I'm going to  
 14 slash the tires of your car.  
 15 Take your money back and  
 16 then he repeatedly tells me he's going to  
 17 cut me with a knife and slash the tires  
 18 of my car. At that point, like I said, I  
 19 looked for the security guard, not there.  
 20 This is what happened. The police were  
 21 standing there. They did nothing. After  
 22 he repeatedly telling I'm going to cut  
 23 you with a knife and slash the tires on  
 24 your car, I said we have to talk outside.  
 25 That's what I said.

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1 M.H. Capogrosso  
 2 Q So you said we have to talk  
 3 outside?  
 4 A I said we have to talk  
 5 outside is what I said. The guy might be  
 6 having -- the guy might have a knife on  
 7 him. I don't know what he's got on him.  
 8 Q So --  
 9 A There's no camera. There is  
 10 no -- when you walk in the TVB, there is  
 11 no metal detectors there. There's nobody  
 12 checking. Anybody can walk in. I did  
 13 what I had to do in that --  
 14 Q So this --  
 15 A I did what I had to do in  
 16 that instance.  
 17 Q So, Mr. Capogrosso, is Paul  
 18 Perez lying in this statement that he  
 19 made?  
 20 A I didn't mess up. He's  
 21 lying there. I never messed up. I  
 22 didn't argue the case and I didn't have  
 23 any time to write the appeal, so I didn't  
 24 mess up.  
 25 Q So why would --

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1 M.H. Capogrosso  
2 A I gave him his money back.  
3 Q -- he lie about you?  
4 A I'm telling you what  
5 happened. I don't know why he would lie.  
6 Ask him. I'm telling you the facts. He  
7 did lie because if you investigated the  
8 facts and Danielle Calvo investigated it,  
9 she would have seen that I didn't  
10 represent him in a courthouse -- in the  
11 hearing room. There's the lie. I never  
12 was in the hearing room with him, ever  
13 and the incident report that was written  
14 indicates that I argued three cases for  
15 him. That is a lie.  
16 I never argued three cases  
17 for him and got him suspended. I was  
18 never in the hearing room.  
19 Q But why would he lie though?  
20 A I don't know why. Ask him  
21 why. He was upset I would imagine. I  
22 can't speculate to that. I never argued  
23 three cases for him in the -- in the  
24 hearing room, I never argued, but that's  
25 what the report says --

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1 M.H. Capogrosso  
2 Q And how --  
3 A -- I argued three cases. He  
4 is lying. Why he's lying, I don't know,  
5 but he is lying. He's upset his license  
6 got suspended. I didn't suspend his  
7 license. The judge suspended him.  
8 MR. THOMPSON: Ms.  
9 MacDonald, can you mark that document  
10 for Mr. Perez if we haven't already  
11 as Exhibit 23.  
12 Q Mr. Capogrosso, I'm about to  
13 show you another document. Do you  
14 recognize this document, sir?  
15 A Can you go down a little  
16 bit?  
17 Q Sure.  
18 A Yeah. This is Perez, this  
19 thing with Perez. Who wrote this one?  
20 Melissa, who's Melissa? I don't know who  
21 Melissa is, but go ahead. I've seen this  
22 document, yeah.  
23 Q And what is this document?  
24 A It's another affidavit that  
25 was submitted against me.

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1 M.H. Capogrosso  
2 Q And this one is marked --  
3 Bates stamped DMV-0000059; correct?  
4 A Yeah.  
5 MR. THOMPSON: Ms.  
6 MacDonald, if we could mark that as  
7 Exhibit 24.  
8 (The above-referred-to  
9 statement was marked as Exhibit 24  
10 for identification as of this date.).  
11 Q So who is Melissa Vergara?  
12 A I have no idea who Melissa  
13 is.  
14 Q So she says she was sitting  
15 at information station 7, so does that  
16 refresh your recollection at all?  
17 A No.  
18 Q But if she was sitting at an  
19 information station, she was probably a  
20 clerk; right?  
21 A Well, yeah. She would be a  
22 clerk, yeah.  
23 Q So as you said she's talking  
24 about the situation with Mr. Perez. She  
25 says she could hear arguing between Mario

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1 M.H. Capogrosso  
2 Capogrosso and a male motorist who was  
3 later identified as Paul Perez.  
4 A Yup. I was arguing with the  
5 man, yes.  
6 Q And then she writes and I'll  
7 highlight this on the screen, "In a clear  
8 and hostile tone, Mr. Capogrosso said to  
9 the motorist to take this outside.  
10 Originally the motorist began following.  
11 He had even taken off his jacket and  
12 swung it on to a stanchion, but only got  
13 about halfway before he stopped himself,  
14 turned around, picked up his jacket and  
15 placed himself in the information line.  
16 Mr. Capogrosso did not. He kept walking  
17 to the door."  
18 Does that refresh your  
19 recollection of what happened?  
20 A Yeah, that's what happened.  
21 After he said he was going to cut me with  
22 a knife and slash the tires on my car, he  
23 said it more than once to me, I looked  
24 around for the security guard, nowhere to  
25 be there. Police officer didn't get

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1 M.H. Capogrosso  
 2 involved. Gelbstein told me we have to  
 3 talk outside. I said we got to go  
 4 outside and talk.  
 5 I started walking to the  
 6 door to talk to this man and he stopped.  
 7 Q Ms. Vergara --  
 8 A That's what happened.  
 9 Q Ms. Vergara also says that  
 10 you said to take it outside. Do you  
 11 recall that?  
 12 A I said we have to talk  
 13 outside.  
 14 Q Okay.  
 15 A We have to talk outside is  
 16 what I said. We have to go outside and  
 17 talk, which is what Gelbstein told me to  
 18 do. You know, I don't go to the DMV to  
 19 get cut and slashed by a motorist. I  
 20 don't go there for that. I go there to  
 21 represent clients and make a living.  
 22 Now, there should have been  
 23 a security guard in there intervening or  
 24 the police should have intervened, I  
 25 should not have been put in this

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1 M.H. Capogrosso  
 2 situation, but neither one did. And I  
 3 should not have been told by Gelbstein in  
 4 a situation like this to go outside the  
 5 courtroom and talk to him about it.  
 6 Q And do you think --  
 7 A I don't go to a courtroom --  
 8 where most courthouses they have metal  
 9 detectors, this one has none. Where I'm  
 10 going to be told I'm going to get cut  
 11 with a knife and slash the tires on my  
 12 car and I got to sit there and be quiet.  
 13 Q And do you think they didn't  
 14 do anything because they wanted you gone?  
 15 A I don't know. Nobody got  
 16 involved. Smart didn't get involved.  
 17 Nobody took my affidavit as to what  
 18 happened. Nobody investigated the facts  
 19 as to what happened because they would  
 20 have seen I never represented him in a  
 21 courthouse. I never represented him in a  
 22 trial, I never did and they would have  
 23 seen that. But in the incident report  
 24 they wrote, they state that I represented  
 25 him in a hearing, which is a lie. I did

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1 M.H. Capogrosso  
 2 not get the man's license suspended.  
 3 Q So, Mr. Capogrosso, I'm  
 4 bringing up another document. Do you  
 5 recognize this document?  
 6 A Yes. I recognize Melanie  
 7 Levine.  
 8 Q And what is this document?  
 9 A That's the incident report  
 10 concerning Mr. Perez.  
 11 MR. THOMPSON: And,  
 12 Ms. MacDonald, can I ask you to  
 13 please mark this as Exhibit 25?  
 14 (The above-referred-to  
 15 report was marked as Exhibit 25 for  
 16 identification as of this date.).  
 17 Q So, Mr. Capogrosso, who is  
 18 Melanie Levine?  
 19 A Well, I thought she was a  
 20 clerk, but she's actually a supervisor of  
 21 the clerks down at the DMV, Brooklyn TVB.  
 22 Q And she writes that you did  
 23 represent Mr. Perez at trial for three  
 24 violations. If she's a clerk, is she in  
 25 a position to know whether or not you did

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1 M.H. Capogrosso  
 2 that?  
 3 A If she's a supervisory  
 4 clerk, yes.  
 5 Q So she writes that "Attorney  
 6 Capogrosso and Mr. Perez engaged in a  
 7 very loud verbal argument in the lobby  
 8 with threats of escalating to a physical  
 9 altercation outside in the parking lot."  
 10 A I told you what happened.  
 11 She never took my affidavit. The man  
 12 threatened to cut me with a knife and  
 13 slash the tires on my car twice.  
 14 Q Well, she writes later on  
 15 even afterwards that -- I highlighted  
 16 that wrong -- that "Attorney Capogrosso  
 17 continued to verbally provoke Mr. Perez  
 18 into going outside while he was on line  
 19 and throughout his experience at the  
 20 service counter being helped by MVR  
 21 Melissa."  
 22 A That's an absolute lie.  
 23 That's an absolute lie. I'm not  
 24 provoking a guy with a knife who wants to  
 25 cut me for a further altercation. I'm

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1 M.H. Capogrosso  
 2 not doing that. I don't know the worst  
 3 idiot in the world who's doing that. I  
 4 don't know the worst -- that's an  
 5 absolute lie.  
 6 Q So why would Melanie lie?  
 7 A I don't know why. That's an  
 8 absolute lie. I never continued to  
 9 provoke. I walked to the door. He  
 10 stopped. He went back on line. I guess  
 11 he thought he didn't want to get involved  
 12 with this any longer and he went back on  
 13 line. I turned away. I never provoked  
 14 that incident any further.  
 15 I've been in incidents like  
 16 this before, I didn't provoke it, but the  
 17 man was telling me twice he wants to cut  
 18 me with a knife. There was no security  
 19 guard. The police chose not to get  
 20 involved. I said we have to talk about  
 21 this outside at this point in time. I  
 22 start walking to the door and he stops.  
 23 That's what I remember and that's what  
 24 happened.  
 25 Why she's writing this, I

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1 M.H. Capogrosso  
 2 don't know. If she investigated the  
 3 facts of this she would have seen I never  
 4 represented him in a courtroom and she  
 5 didn't investigate the facts and she  
 6 never asked my story on it.  
 7 Q So Ms. Vergara and  
 8 Ms. Levine both said that even after he  
 9 went back in, you continued to provoke  
 10 him.  
 11 A I didn't provoke him. I was  
 12 standing there watching him. I don't  
 13 know if this guy's coming at me with a  
 14 knife at this point. I didn't provoke.  
 15 I'm watching. That's not provoking. I'm  
 16 watching the man. I'm watching to see if  
 17 my car -- my tires on my car get slashed,  
 18 which I'm allowed to do.  
 19 Q Then why would --  
 20 A I was not provoking.  
 21 Q So why would they say  
 22 something --  
 23 A I don't know why.  
 24 Q -- that's not true?  
 25 A You keep asking me why they

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1 M.H. Capogrosso  
 2 say things. I don't know why. But tell  
 3 me what words I used to provoke. Tell me  
 4 what words I actually stated. They're  
 5 not there. I provoked nothing. Tell me  
 6 what words I used to provoke.  
 7 Q Well, this is sort of an  
 8 overview -- well, I think the word, one  
 9 of the words is take this outside.  
 10 But, Mr. Capogrosso, I think  
 11 this speaks to sort of a broader question  
 12 in this case, which is there are all of  
 13 these documents alleging that you --  
 14 A Well, I'm going to respond  
 15 to each document separately, separately.  
 16 Q And we've been addressing  
 17 them separately, but it's worth talking  
 18 about them together because --  
 19 A Okay. What's your question?  
 20 Q -- each of these documents  
 21 that you're saying --  
 22 A Counselor --  
 23 Q -- are broad --  
 24 A Counselor, what is your  
 25 question?

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1 M.H. Capogrosso  
 2 Q I'm getting there. There  
 3 are all these documents we've been  
 4 talking about written by different  
 5 people, each of which you say are lies,  
 6 each of which say more or less the same  
 7 thing, that you verbally or physically  
 8 threatened or intimidated somebody.  
 9 Why are there so many people  
 10 saying this and why are they all lying  
 11 about you?  
 12 A I've addressed each  
 13 affidavit individually and I've told you  
 14 my statement on each affidavit, each  
 15 affidavit. I was there 10 years. I told  
 16 you my statement on each affidavit and  
 17 I've given you those reasons already.  
 18 I'm not going to go into them again, but  
 19 I'm telling you on this affidavit what  
 20 happened that day.  
 21 Q And you don't think there's  
 22 a pattern here?  
 23 A I responded to each  
 24 affidavit individually. No, I do not  
 25 think there's a pattern, no.

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1 M.H. Capogrosso  
 2 Q Why not?  
 3 A He told me he was going to  
 4 cut me a knife, slash the tires on my car  
 5 twice. I was told my Gelbstein if you  
 6 got an unruly client, talk to him outside  
 7 the courtroom, which is what I did. That  
 8 is not provoking. That is not  
 9 threatening. That is not verbal abusing.  
 10 He walked to the line. I  
 11 didn't -- I walked halfway and I stopped.  
 12 I kept my eyes on this guy and I made  
 13 sure he didn't cut the tires on my car.  
 14 I did nothing wrong there.  
 15 I do not think there's a  
 16 pattern. I think each affidavit has to  
 17 be taken individually and you tell me the  
 18 facts of each affidavit. There is no  
 19 pattern.  
 20 Q Would someone who's not  
 21 familiar with your situation, like Bushra  
 22 Vahdat or Ida Traschen, see a pattern in  
 23 all of these complaints?  
 24 A Well, maybe if they asked me  
 25 my opinion as to what happened and gave

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1 M.H. Capogrosso  
 2 me an opportunity to state my opinion,  
 3 then they would have seen what actually  
 4 happened here, but they gave me no  
 5 opportunity, none. They write an  
 6 incident report that's a lie because they  
 7 could have investigated it and they  
 8 didn't.  
 9 I didn't represent this guy  
 10 Perez. They have -- so I don't know what  
 11 they're going to -- at least ask me my  
 12 opinion as to what happened on each case  
 13 and give me an opportunity to defend  
 14 myself.  
 15 Q I mean how many  
 16 investigations are they supposed to run?  
 17 You know, at this point we are on Exhibit  
 18 25 we just went through. How many  
 19 investigations are they supposed to have  
 20 made?  
 21 A Counsel, anybody can write  
 22 an allegation. Anybody can write an  
 23 affidavit. If you're going to write it,  
 24 then defend it and give me an opportunity  
 25 to respond to it.

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1 M.H. Capogrosso  
 2 Q Do they have an obligation  
 3 to investigate every single complaint?  
 4 A Yeah, they do. If you're  
 5 going to put me out of work, yeah, they  
 6 do. Yes, they do. I don't care how long  
 7 it takes. If you're going to use it to  
 8 put me out of work, you better  
 9 investigate it --  
 10 Q And what's --  
 11 A -- otherwise you're not  
 12 giving me a fair chance.  
 13 Q And what's the legal  
 14 authority for your contention that they  
 15 had an obligation to investigate all  
 16 these?  
 17 A Because are they truthful or  
 18 not? Are they truthful, the truth? Is  
 19 there any substance to any of them?  
 20 Anybody can make an allegation.  
 21 Q So, Mr. Capogrosso, I  
 22 understand that, but --  
 23 A I can walk into the DMV and  
 24 make allegations.  
 25 Q Mr. --

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1 M.H. Capogrosso  
 2 A I can walk -- wait a minute.  
 3 I can walk into the DMV and make  
 4 allegation, allegation and allegation and  
 5 you know what, they would throw me out  
 6 because I made allegations.  
 7 Q Mr. Capogrosso, but the  
 8 question was are you aware of any statute  
 9 or regulation or other legal authority  
 10 requiring the investigations that you're  
 11 demanding?  
 12 A I think if you're to make an  
 13 allegation against a guy, you got to give  
 14 a guy a chance to defend himself, hear  
 15 the facts, otherwise it's not a --  
 16 there's no allegation, just a one-sided  
 17 statement.  
 18 Q Mr. Capogrosso, I would  
 19 appreciate it if you can answer this  
 20 question yes or no. Are you aware of any  
 21 statute, regulation or other legal  
 22 authority that requires the  
 23 investigations that you're demanding?  
 24 A How about the 14th  
 25 Amendment, due process of law?

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1 M.H. Capogrosso  
2 Q What does that mean to you?  
3 A To me it means I get a fair  
4 hearing. I get a chance to defend  
5 myself, present evidence, give an  
6 affidavit in response. The due process,  
7 the 14th Amendment to the Constitution.  
8 Due process, you're a lawyer. Let me  
9 tell my side. Let an independent  
10 somebody -- let them hear my side, give  
11 evidence --  
12 Q And --  
13 A -- present witnesses, give  
14 my statement --  
15 Q And Mr. Capogrosso --  
16 A -- do an investigation.  
17 Q Mr. Capogrosso, are you --  
18 A It can't be all one sided.  
19 Q Mr. Capogrosso --  
20 A You have to let me finish.  
21 Q No. Let me -- I have  
22 another question, so let me state my  
23 question. Are you aware that your due  
24 process complaint was dismissed by Judge  
25 Brody?

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1 M.H. Capogrosso  
2 A I had a right to be heard on  
3 these complaints. Anybody can write a  
4 complaint. This one by Perez is  
5 ridiculous. The man wants to cut me with  
6 a knife and you're telling me that that's  
7 acceptable in your -- in this courthouse.  
8 Q Mr. Capogrosso, my question  
9 was are you aware that your due process  
10 claim was dismissed?  
11 A No. I do not.  
12 Q No, you're not aware of  
13 that?  
14 A No, I'm not. Maybe it was  
15 dismissed, but when I was working at  
16 this, they should have heard my side of  
17 the story.  
18 Q But --  
19 A Mr. Perez comes down and  
20 threatens me with a knife twice, twice --  
21 Q But Mr. Capogrosso --  
22 A -- and nobody takes my  
23 affidavit concerning this. I mean is  
24 this -- is this whole system just  
25 ludicrous?

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1 M.H. Capogrosso  
2 Q Mr. Capogrosso, the federal  
3 court did dismiss your due process claim.  
4 That's no longer a part of this case.  
5 A All right. Fine. So let  
6 me go down to the --  
7 Q You know that; right?  
8 A Let me go down to the  
9 Brooklyn TVB and take a knife. Is that  
10 what you want me to do? Is that what the  
11 DMV wants me to do, take a knife?  
12 Q Are you --  
13 A Get cut by a motorist, is  
14 that acceptable?  
15 Q Are you threatening that?  
16 A No. I'm not threatening  
17 that, but that's what you want. No, you  
18 want me to take a knife. You want  
19 Mr. Perez to come down and slice up an  
20 attorney.  
21 Q No. No one wants that.  
22 A Well, then what would you  
23 want me to do in this instance?  
24 Q Well --  
25 A It's ridiculous.

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1 M.H. Capogrosso  
2 Q Well, if the incident  
3 didn't --  
4 A You have no metal detectors,  
5 no metal detectors, no security guard to  
6 be found, told by Gelbstein to talk to --  
7 to take the motorist outside.  
8 I did nothing wrong here.  
9 I'm sorry, I didn't. Let a Brooklyn jury  
10 hear it.  
11 Q All right. Let's move on.  
12 Mr. Capogrosso, I'm going to show you  
13 another document. Do you recognize this  
14 document, sir?  
15 A No. This one I don't know,  
16 no.  
17 Q This document is --  
18 A It's talking about a paper  
19 clip. I don't know what this is about a  
20 paper clip. I have no idea.  
21 Q Marked Gelb-0000035;  
22 correct?  
23 A Yeah.  
24 Q And I'll represent to you  
25 it's an e-mail from Geri Piparo sent on

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1 M.H. Capogrosso  
 2 Monday, February 9, 2015.  
 3 A You have a clerk leaving one  
 4 paper clip, one paper clip every morning.  
 5 I don't understand what this is about,  
 6 but that's what she's doing. For an  
 7 attorney to use, for what reason leaving  
 8 one paper clip.  
 9 This is the type of clerks  
 10 you have down there. She's leaving one  
 11 paper clip for an attorney to use, any  
 12 attorney.  
 13 Q So --  
 14 A I don't understand what your  
 15 clerks get paid to do, but this is what  
 16 she likes to do.  
 17 Q Why is that --  
 18 Mr. Capogrosso, if I can ask, why is  
 19 it -- why is there a problem with leaving  
 20 a paper clip on a garbage pail?  
 21 A There is none, do whatever  
 22 you want, but it doesn't make any sense.  
 23 What are you doing it for? What's the  
 24 purpose? What is this Geri, whatever her  
 25 name is, get paid to do?

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1 M.H. Capogrosso  
 2 But there is no -- there is  
 3 no reason, but I never said -- it doesn't  
 4 make any sense to me this whole thing.  
 5 It doesn't make any sense.  
 6 Q Did you make a complaint to  
 7 Judge Gelbstein about this paper clip?  
 8 A No. Absolutely not. No.  
 9 Q So why would she say that  
 10 you did?  
 11 A I don't know. She admits to  
 12 doing it, it doesn't make a whole lot of  
 13 sense, but she does what she does. This  
 14 is what your clerks at the DMV get paid  
 15 to do.  
 16 Q Is she lying?  
 17 A About leaving the clip, no.  
 18 Did I make a complaint about it, no. I  
 19 could care less about a paper clip.  
 20 Q So is she lying about your  
 21 conduct with the paper clip?  
 22 A Absolutely. I could give a  
 23 damn about a paper clip. Was it stupid  
 24 that clerks have to waste time doing  
 25 nonsense stuff like this, yes, stupid.

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1 M.H. Capogrosso  
 2 You have --  
 3 Q So --  
 4 A It's absolutely stupid. Did  
 5 I complain about it, no. Did I care  
 6 about it, no.  
 7 Q She then writes "On November  
 8 18 as I was walking through the office,  
 9 Mr. Capogrosso was with a customer and as  
 10 I passed he said Geri, stick it where the  
 11 sun don't shine."  
 12 A No. I never said that.  
 13 Q You never said that?  
 14 A No. I could care less --  
 15 Q Did you say anything like  
 16 that?  
 17 A No. I could care less about  
 18 a paper clip. I could care less about a  
 19 paper clip.  
 20 Q I don't think that statement  
 21 was in connection with the paper clip. I  
 22 think she said that that was a different  
 23 incident.  
 24 A Well, concerning what?  
 25 Concerning what?

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1 M.H. Capogrosso  
 2 Q It's not clear.  
 3 A Well, tell me what exactly  
 4 I'm being accused of. I could care less  
 5 about a paper clip. Tell me exactly.  
 6 Q She says that you told her  
 7 to stick it where the sun don't shine.  
 8 A For what reason would I say  
 9 that? Tell me why I would say that.  
 10 Q I don't know. You're the  
 11 deponent. You tell me.  
 12 A I don't know why. I don't  
 13 know why. I did not say it and tell me  
 14 why she thinks I would have said it  
 15 because it wasn't said.  
 16 Q She then says "I informed  
 17 Judge Gelbstein and Judge Vahdat again.  
 18 Judge Gelbstein went out to speak to  
 19 him."  
 20 Do you remember this  
 21 conversation?  
 22 A No.  
 23 Q She says that you verbally  
 24 attacked Judge Gelbstein and her cursing.  
 25 A No.

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1 M.H. Capogrosso  
 2 Q Do you remember that?  
 3 A No. I would never curse a  
 4 judge. I would never curse a woman,  
 5 never.  
 6 Q So why is she lying?  
 7 A I don't know. Ask her. I  
 8 do admit that there was -- she was -- she  
 9 admits to leaving this paper clip. It's  
 10 absolutely ridiculous. Absolutely  
 11 ridiculous that your clerks -- this is  
 12 what clerks do. But do I give a damn  
 13 about a paper clip, no.  
 14 Q Can you explain to me why --  
 15 like why is it ridiculous that they leave  
 16 a paper clip someplace?  
 17 A What's the purpose of  
 18 leaving a paper clip someplace? It  
 19 doesn't make -- for an attorney to use.  
 20 Why would I -- I don't know. I don't  
 21 understand the whole purpose of this  
 22 though. It's just nonsensical.  
 23 Q I guess my question is who  
 24 cares if they leave a paper clip  
 25 somewhere?

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1 M.H. Capogrosso  
 2 A I don't care. That's the  
 3 whole deal, I don't care. I don't know  
 4 what this is about. I don't care. I  
 5 don't give a darn about a paper clip in a  
 6 courthouse. There's paper clips all over  
 7 the place. You got a bunch of idiot  
 8 clerks down there. I'm smirking at one  
 9 and now I'm complaining about a clip.  
 10 You got a bunch of idiot clerks.  
 11 Q Do you think that Ms. Piparo  
 12 wanted to get rid of you?  
 13 A I think -- I think all of  
 14 the clerks didn't like me. I told you, I  
 15 was there a long time. They were getting  
 16 gifts and money from all the other  
 17 attorneys and I was not getting involved  
 18 in this.  
 19 Now, nothing was said, but  
 20 the other attorneys told me that they  
 21 were giving the clerks money, cash,  
 22 buying them breakfast in the morning.  
 23 How many times do I have to say it to  
 24 you?  
 25 Q And you think that's

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1 M.H. Capogrosso  
 2 connected to this complaint?  
 3 A I don't know.  
 4 Q But you think --  
 5 A I could care less about a  
 6 paper clip. I think you got a bunch of  
 7 idiot clerks there who need to -- you  
 8 know, who didn't like me because I  
 9 wasn't, you know, like I said, giving  
 10 them money, giving them cash, giving them  
 11 presents, buying them breakfast. I was  
 12 there to do a job. I told you that  
 13 repeatedly.  
 14 MR. THOMPSON: All right.  
 15 Ms. MacDonald, can we mark that  
 16 document as Exhibit 26?  
 17 (The above-referred-to  
 18 e-mail was marked as Exhibit 26 for  
 19 identification as of this date.)  
 20 THE WITNESS: Listen, I got  
 21 27 minutes left. I hope you  
 22 understand that, Attorney Thompson.  
 23 MR. THOMPSON: Let's take a  
 24 quick break and go off the record  
 25 then and talk.

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1 M.H. Capogrosso  
 2 THE WITNESS: Because it's a  
 3 seven hour day.  
 4 MR. VIDEOGRAPHER: Okay. So  
 5 the time is 4:03. We are off the  
 6 record.  
 7 (A short recess was taken.)  
 8 MR. VIDEOGRAPHER: The time  
 9 is 4:05. We are on the record.  
 10 Q And, Mr. Capogrosso, while  
 11 we were off the record we just had a  
 12 discussion about the timing of the  
 13 deposition and we agreed that we would go  
 14 until there's been a full seven hours on  
 15 the record; correct?  
 16 A Yes, which should take us to  
 17 5:23 if we don't take any breaks.  
 18 Q Good.  
 19 So, Mr. Capogrosso, I'm  
 20 going to show you a document. Do you  
 21 recognize this document?  
 22 A Yes. Well, I recognize the  
 23 name, Diantha.  
 24 Q Have you seen it before?  
 25 A Yes.

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1 M.H. Capogrosso  
 2 Q And what is this document?  
 3 A Some complaint that Diantha  
 4 wrote about me and I'm saying the word  
 5 shit, which I wasn't.  
 6 Q And this document is Bates  
 7 stamped DMV-0000003; correct?  
 8 A Yes.  
 9 Q So Ms. Fuller says that  
 10 since she came back to practice at the  
 11 TVB in September 2014, you would say shit  
 12 whenever she passed by you --  
 13 A No.  
 14 Q -- is that correct?  
 15 A No. I say eesha. I say  
 16 eesha.  
 17 Q You said what?  
 18 A Eesha, eesha. I was  
 19 practicing martial -- it's just something  
 20 I say to myself. I say it quietly, I say  
 21 it under my breath. It was never the  
 22 word shit. It was the word eesha,  
 23 E-E-S-H-A. I'm saying it for a long  
 24 time. It gets me motivated.  
 25 Q What --

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1 M.H. Capogrosso  
 2 A It's just something I say.  
 3 Q What does eesha mean?  
 4 A It just means something to  
 5 me. It keeps me motivated. It's under  
 6 my breath. It's very low. It was never  
 7 the word shit. It was never directed to  
 8 any person. I say it to myself. It  
 9 keeps me motivated.  
 10 There's no -- no prohibition  
 11 against speaking to yourself. It's said  
 12 quietly. It keeps me motivated. It  
 13 means something to me. I'm allowed to  
 14 say it. If there was a problem with it,  
 15 all you had to do was tell me once, I  
 16 would never say it again, but it was not  
 17 the word shit and it was not directed to  
 18 her.  
 19 Q So, in fact, she says that  
 20 she did say it was a problem. She says  
 21 that on March 13, 2015 you passed by her  
 22 and said shit to her and she responded --  
 23 and she responded saying that you were  
 24 crazy and that she was sick of you saying  
 25 shit to her.

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1 M.H. Capogrosso  
 2 A Well, I didn't say --  
 3 Q Do you recall that  
 4 conversation?  
 5 A I never said that word, no.  
 6 I never said the word. No, she's -- I  
 7 never said the word. I told you what I  
 8 said.  
 9 Q Do you recall the  
 10 conversation where she --  
 11 A No. I do not.  
 12 Q -- objected to you saying  
 13 it?  
 14 A No. She's verbally --  
 15 verbally swearing at me, that's not  
 16 appropriate. I say the word eesha and  
 17 I'm allowed to say it and I'll continue  
 18 saying it. There's nothing wrong with  
 19 it. It means something to me.  
 20 Now, if there was a problem  
 21 with that --  
 22 Q Okay.  
 23 A -- you don't barrage me with  
 24 swear words. You say Mr. Capogrosso,  
 25 what are you saying, can you please tell

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1 M.H. Capogrosso  
 2 me and if I -- and I would explain it to  
 3 her.  
 4 Q And did you --  
 5 A She didn't do that. She  
 6 didn't do that. What she did was a  
 7 barrage of swear words, telling me I'm  
 8 psycho and crazy.  
 9 Now, I'm allowed to say the  
 10 word because you are allowed. It's  
 11 called freedom of speech.  
 12 Q And when you said eesha,  
 13 what does eesha mean to you?  
 14 A It means something to me.  
 15 Q What does it mean to you?  
 16 A It just means something to  
 17 me. It keeps me motivated.  
 18 Q Okay. But you're saying it  
 19 means something and I'm asking you what  
 20 it means.  
 21 A It's just a little something  
 22 I say.  
 23 Q And what is the meaning of  
 24 the little something that you say?  
 25 A It's a motivational phrase

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1 M.H. Capogrosso  
 2 that I say to myself. I've been saying  
 3 it forever.  
 4 Q Where does it come from?  
 5 A It just comes from where it  
 6 comes from. I don't know where it comes  
 7 from. It just comes.  
 8 Q It's just a thing that you  
 9 say for no reason at all?  
 10 A It's a thing I say that  
 11 keeps me motivated, yes.  
 12 Q And you would say it  
 13 whenever you walked by Ms. Fuller?  
 14 A No. I would say it when I  
 15 was feeling kind of tired or a little --  
 16 a little fatigued because it's a  
 17 fatiguing day down there. It wasn't --  
 18 Q And you said --  
 19 A It was before anybody. I  
 20 would just be -- you know, I had a hard  
 21 day, I'd just keep moving and it just  
 22 keeping me motivated.  
 23 Q And you see more that this  
 24 is signed by Mr. Tahir as well; correct?  
 25 A Yeah. I'll tell you where I

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1 M.H. Capogrosso  
 2 got it from. I was training in a martial  
 3 arts gym a long time ago when I was a  
 4 younger guy and the instructor used to  
 5 say it all the time that I was training  
 6 with me at the time and it kept us  
 7 motivated throughout the course  
 8 seriously.  
 9 So I'm not going to give you  
 10 his name, a man I trained with at the  
 11 time, but it was in a gym and he would  
 12 say it to keep us -- and after that, you  
 13 know, we were -- I picked up on it.  
 14 Does it have anything to do  
 15 with shit or talking to this woman who's  
 16 calling me a psycho and swearing at me,  
 17 no. It's something I picked up in a  
 18 martial art gym a long time ago when I  
 19 was training and he would say it. I  
 20 never questioned him what it meant, but  
 21 it kept us going.  
 22 So that's where I picked it  
 23 up from, but it was not the word shit and  
 24 it wasn't directed to anybody.  
 25 Q If this behavior were true,

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1 M.H. Capogrosso  
 2 and I know you don't think it is, but if  
 3 you were saying shit to another attorney  
 4 every time you walked past her, would  
 5 that justify your exclusion from the TVB?  
 6 A I'm not going to -- I'm not  
 7 going to get into hypotheticals. I don't  
 8 know. I didn't -- first of all, I didn't  
 9 say the word shit. Ask me what I said.  
 10 Don't swear at me with a barrage of swear  
 11 words and tell me I'm a psycho. Just  
 12 talk to me and --  
 13 Q And you --  
 14 A -- I'll tell her. Like I  
 15 told you, I would tell her.  
 16 Q You had been warned by --  
 17 A I told you. Like I told  
 18 you, I would tell her.  
 19 Q Mr. Capogrosso, you had been  
 20 warned by the DMV that verbal abuse could  
 21 get you expelled; correct?  
 22 A There was no verbal abuse  
 23 here, I'm sorry, there wasn't.  
 24 Q I know you don't think so,  
 25 but the question is had you been warned

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1 M.H. Capogrosso  
 2 before that verbal abuse could get you  
 3 expelled?  
 4 A I saw the letter to that  
 5 effect. There was no verbal abuse.  
 6 Q So were you worried after  
 7 this complaint from Ms. Fuller and  
 8 Mr. Tahir and this incident with  
 9 Ms. Fuller that you would be expelled  
 10 from the TVB?  
 11 A No, because there was no  
 12 verbal abuse. It's called freedom of  
 13 expression. There was no verbal abuse --  
 14 Q So were --  
 15 A -- so stop making -- there  
 16 was no verbal abuse.  
 17 Q Were you worried that this  
 18 incident would lead to your expulsion?  
 19 A I'm allowed -- you know,  
 20 people pray all day. They say various  
 21 prayers. I'm down at the DMV, there's  
 22 guys praying. They're allowed to pray.  
 23 I'm allowed to say a word to myself  
 24 quietly under my breath. There was no  
 25 verbal abuse.

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1 M.H. Capogrosso  
 2 Q I understand,  
 3 Mr. Capogrosso, but that wasn't the  
 4 question. The question is were you  
 5 worried that this incident would lead  
 6 to --  
 7 A No.  
 8 Q -- the TVB to expel you?  
 9 A No. I was not worried  
 10 because I did not verbally abuse anybody.  
 11 I was not worried. I did not verbally  
 12 abuse.  
 13 I'm not going to be told I  
 14 can't say a word under my breath that was  
 15 not the word shit and not directed to  
 16 anybody.  
 17 Q So I'll just note that the  
 18 letter that you sent to AAG  
 19 Prickett-Morgan was sent the very next  
 20 day after this letter.  
 21 Did you send that letter  
 22 because you were worried the DMV was  
 23 going to take action against you?  
 24 A No. I was worried because  
 25 the action with Smart. I didn't even

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1 M.H. Capogrosso  
 2 realize that -- the action with Smart is  
 3 what I was more concerned about.  
 4 Now, listen, this, what do  
 5 you call it, Diantha, she's assaulted me  
 6 with a barrage and she admits to it, a  
 7 barrage of verbal abuse and obscenities.  
 8 She's yelling at me, cursing me out,  
 9 calling me a psycho. If that's not  
 10 verbal abuse, I don't know what it is.  
 11 So she's verbally abusing me  
 12 and she gets a pass. She's not -- she's  
 13 not thrown out. That's accepted, right.  
 14 She's verbally abusing me, calling me a  
 15 psycho and this and that.  
 16 I used the word eesha, not  
 17 the word shit. That's not verbal abuse.  
 18 MR. THOMPSON: So,  
 19 Ms. MacDonald, if we didn't already,  
 20 let's mark that letter from  
 21 Ms. Fuller and Mr. Tahir as Exhibit  
 22 27.  
 23 (The above-referred-to memo  
 24 was marked as Exhibit 27 for  
 25 identification as of this date.)

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1 M.H. Capogrosso  
 2 Q Mr. Capogrosso, I'm going to  
 3 bring up another letter here. Do you  
 4 recognize this letter?  
 5 A Absolutely. That's the  
 6 letter that went to your office that got  
 7 lost in the mailroom for four weeks.  
 8 Q Did you send this letter?  
 9 A Yeah, I did.  
 10 Q And this is marked P-41 in  
 11 your production; correct?  
 12 A Yes.  
 13 MR. THOMPSON: And,  
 14 Ms. MacDonald, let me ask that this  
 15 letter be marked as Exhibit 28.  
 16 (The above-referred-to  
 17 letter was marked as Exhibit 28 for  
 18 identification as of this date.)  
 19 Q Mr. Capogrosso, you said  
 20 this was lost in our mailroom. Can you  
 21 explain what you mean by that?  
 22 A I sent it on March 20. I  
 23 called a couple of days later to see if  
 24 you received it. They didn't receive it.  
 25 I called again. A week later they told

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1 M.H. Capogrosso  
 2 me it was lost in the mailroom. I called  
 3 again. They said they still couldn't  
 4 find it in the mailroom.  
 5 About three or four weeks  
 6 later after I called, eventually it was  
 7 found. I don't know how that happened.  
 8 I guess your office didn't want to  
 9 receive it, but that's what happened.  
 10 Q So, Mr. Capogrosso, who is  
 11 Elizabeth Prickett-Morgan?  
 12 A She's the Attorney General  
 13 of New York State.  
 14 Q I'm pretty sure she's an  
 15 Assistant Attorney General.  
 16 A I thought she was the  
 17 Attorney General. She's an Assistant,  
 18 right. Letitia James, right.  
 19 Q So why would you send a  
 20 letter to her?  
 21 A Because I complained to  
 22 Judge Gelbstein and when I complained to  
 23 Judge Gelbstein, he laughs and giggles  
 24 and tells me a spade is a spade. I'm not  
 25 getting relief about the harassment of

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1 M.H. Capogrosso  
 2 Smart, the constant harassment by Smart  
 3 and I don't want an incident on this  
 4 floor and I'm seeing what's happening.  
 5 This guy, Smart, is provoking me into a  
 6 fight. He gets in my face. What's the  
 7 problem? Fuck you, you're the problem.  
 8 Because I complained about him stealing  
 9 \$80 and a fee and he's allowed to remain  
 10 by Gelbstein. Vahdat's not --  
 11 Q So --  
 12 A Go ahead. Vahdat's not  
 13 listening to me.  
 14 Q Mr. Capogrosso, was  
 15 Ms. Elizabeth Prickett-Morgan part of  
 16 DMV?  
 17 A I said let me call -- let me  
 18 write a letter to the Attorney General's  
 19 office, that's all I said to myself. I  
 20 think that was the correspondence address  
 21 when I looked you up on the website.  
 22 Q So -- and so did you file  
 23 this believing that Elizabeth  
 24 Prickett-Morgan was the Attorney General  
 25 of New York State?

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1 M.H. Capogrosso  
 2 A I filed it with the Attorney  
 3 General of New York State and when I  
 4 looked you up on the website, that was  
 5 the correspondence address that I found  
 6 to correspond with.  
 7 Q So --  
 8 A I looked you up to send it  
 9 in and they put her name there, so that's  
 10 the one I used.  
 11 Q So what's, you know, what's  
 12 the connection between the Attorney  
 13 General's office and DMV?  
 14 A The Attorney General's  
 15 office represented DMV in my Article 78  
 16 proceeding, right.  
 17 Q But hadn't --  
 18 A They're the lawyers.  
 19 Q Hadn't the Article 78  
 20 proceeding been over for three years by  
 21 this point?  
 22 A Yeah, but they're the ones  
 23 who put all these conditions on me, right  
 24 and I had to act in a certain way, right,  
 25 even though other attorneys were verbal

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1 M.H. Capogrosso  
 2 abusing me is acceptable or using swear  
 3 words is acceptable or calling me a  
 4 psycho, Diantha Fuller, which is  
 5 acceptable.  
 6 So I don't want an incident.  
 7 The basis of this letter is this, I don't  
 8 want another incident at the TVB. I  
 9 don't want anything to happen to me,  
 10 right. I don't want an incident.  
 11 You gave me this letter. No  
 12 verbal abuse, threatening physical  
 13 conduct. I'm trying to be, you know, a  
 14 perfect gentleman, which is what I was,  
 15 right. I'm trying to do the right thing.  
 16 I'm trying to be a perfect gentleman,  
 17 handle my cases, do what I have to do.  
 18 I'm seeking relief here.  
 19 Gelbstein, when I complain about Smart,  
 20 he laughs and giggles and tells me a  
 21 spade is a spade. So let me call the  
 22 Attorney General's office who sent me  
 23 this letter, who represented me in the  
 24 Article 78, who gave me all these  
 25 conditions and tell her what's going on

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1 M.H. Capogrosso  
 2 down here.  
 3 Q But Elizabeth  
 4 Prickett-Morgan --  
 5 A And your office does not  
 6 seem to care. They lose it in their  
 7 mailroom. They lose it they eventually  
 8 find it. They don't respond to it. They  
 9 don't give me any response to it and  
 10 Smart approaches me in the morning on  
 11 May 11.  
 12 Q Elizabeth Prickett-Morgan  
 13 didn't represent DMV in your case; did  
 14 she?  
 15 A I don't know. You would  
 16 have to talk to my attorney, Chris  
 17 McDonough, on this. I don't know who  
 18 did.  
 19 When I looked you up on  
 20 the -- on Google for a correspondence  
 21 address, Prickett-Morgan's name was  
 22 attached to it. That's why I wrote that.  
 23 Q Did you speak with an  
 24 attorney about filing this letter?  
 25 A No.

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1 M.H. Capogrosso  
 2 Q Did you speak with  
 3 Mr. McDonough?  
 4 A No. Chris did tell me if  
 5 you sneeze the wrong way, they're going  
 6 to throw you out again.  
 7 Q So I guess my question is  
 8 you wrote this letter to the office that  
 9 represented DMV in the case three years  
 10 ago to an attorney who wasn't even on the  
 11 case.  
 12 Why do you think anyone  
 13 would care about this letter?  
 14 A I'll say it again, the  
 15 Article 78 you gave me all these  
 16 conditions, right, in that letter, that  
 17 was from your office, no verbal abuse, no  
 18 threatening of physical contact or  
 19 conduct, right. That was from your  
 20 office, right, from your office, the  
 21 Attorney General's office. I did not  
 22 deal with the Attorney General's office.  
 23 Chris McDonough dealt with the Attorney  
 24 General's office.  
 25 I'm trying to adhere to all

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1 M.H. Capogrosso  
 2 of these rules and regulations  
 3 specifically put on me, on me, that I had  
 4 to deal with now and I'm getting all this  
 5 harassment by Smart because I reported a  
 6 theft. I go to Gelbstein. Gelbstein  
 7 doesn't want to hear it. He laughs and  
 8 giggles, tells me a spade is a spade  
 9 concerning Smart.  
 10 Who else do you want me  
 11 writing to? If I'm supposed to adhere to  
 12 the conditions that you put on me, the  
 13 Attorney General's office, I got to go to  
 14 the Attorney General's office, say how do  
 15 I -- what do I do in this situation?  
 16 I can't adhere if I've got a  
 17 security guard who doesn't want to leave  
 18 me alone.  
 19 Q So, Mr. Capogrosso, you  
 20 testify a moment ago that you wrote this  
 21 letter because you were worried that  
 22 there would be an incident?  
 23 A Absolutely.  
 24 Q Can you tell me what you  
 25 mean by that?

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1 M.H. Capogrosso  
 2 A I said this guy Smart  
 3 wouldn't stop. I went into detail with  
 4 it and Gelbstein's giving me no  
 5 protection. He's not telling this guy --  
 6 or he's incapable, incompetent or  
 7 complicit, I state that. Smart will get  
 8 in my face, what's the problem? Fuck  
 9 you, you're the problem. He gives me the  
 10 sign of the cross and a spear hand. He  
 11 bumps into me.  
 12 Q And were you worried that  
 13 this incident --  
 14 A Then the incident happens.  
 15 On May 11 this guys comes again. He  
 16 comes, he gets in my face again. I put  
 17 up my hand. I tell him to back up.  
 18 Q Let me ask you,  
 19 Mr. Capogrosso, when you wrote this  
 20 letter were you worried that this  
 21 incident would be used to justify your  
 22 expulsion from the TVB?  
 23 A Would I -- I saw something  
 24 coming. I saw something coming. This  
 25 guy Smart didn't want to stop. I don't

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1 M.H. Capogrosso  
 2 know if Gelbstein -- I think Gelbstein  
 3 was putting him up to it. I really  
 4 believe Gelbstein was putting --  
 5 Gelbstein wanted me out. I really think  
 6 Gelbstein wanted me out of here and --  
 7 Q And that's --  
 8 A -- I think Gelbstein put  
 9 Smart up to it, I really do believe that,  
 10 because he didn't look at the videotape.  
 11 On the morning of May 11, he was  
 12 conveniently not in the DMV, just not  
 13 there. He was not in the TVB, in the  
 14 Brooklyn TVB conveniently.  
 15 I think he put this guy  
 16 Smart up to it. He wanted me out and I  
 17 saw it coming and I'm seeking --  
 18 Q Is that part --  
 19 A -- relief. I'm seeking  
 20 relief. I'm seeking for somebody to  
 21 allow me just to practice law like every  
 22 other lawyer.  
 23 Q And is that part of why you  
 24 wrote the letter?  
 25 A I'm seeking relief from your

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1 M.H. Capogrosso  
2 office.  
3 Q Yes. So I understand, but  
4 the question is you believe that Judge  
5 Gelbstein was trying to get rid of you  
6 through David Smart, was that why you  
7 wrote this letter?  
8 A I want to practice law down  
9 in Brooklyn TVB. I was a good lawyer  
10 down there. I'm seeking relief.  
11 Q I understand that.  
12 A I don't know -- I don't know  
13 if Gelbstein put this guy Smart up to it.  
14 I don't know, but he --  
15 Q Did you suspect it at this  
16 time?  
17 A What's that?  
18 Q Did you suspect at this time  
19 that Judge Gelbstein was putting him up  
20 to it?  
21 A I think Gelbstein is as  
22 corrupt as they come, my personal opinion  
23 and I told you the reasons why. When  
24 you -- when you complain to a judge and  
25 that judge laughs and giggles and tells

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1 M.H. Capogrosso  
2 you a spade is a spade, I think he's  
3 corrupt and doesn't deserve to hold the  
4 office.  
5 No matter who's protecting  
6 him, I think he's corrupt and doesn't  
7 deserve to hold that office. He should  
8 have stopped the behavior.  
9 Q So the question is --  
10 A Gelbstein should have  
11 stopped this behavior and he didn't do  
12 it.  
13 Q So the question,  
14 Mr. Capogrosso, is when you wrote this  
15 letter, were you -- did you do it because  
16 you were worried that Judge Gelbstein was  
17 going to use David Smart to get you  
18 expelled?  
19 A I used it to stop the  
20 harassment. I didn't want an incident.  
21 I spelled it out very clearly. I did  
22 not --  
23 Q Mr. Capogrosso, I understand  
24 that.  
25 A I answered it. I answered

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1 M.H. Capogrosso  
2 your question. I used it because I did  
3 not want an incident. I did not --  
4 Q So Mr. Capogrosso --  
5 A I did not want an incident.  
6 Q Can I ask you to answer the  
7 question with a yes or a no, did you  
8 write this letter, in whole or in part,  
9 because you believed Judge Gelbstein was  
10 trying to get you expelled?  
11 A I wrote it because I did not  
12 want an incident. That's why I wrote it.  
13 Q Okay. But can I ask you to  
14 answer the question yes or no?  
15 A That is the question. No  
16 there's no -- that's the reason I wrote  
17 it.  
18 Q So yes -- and, again, it's a  
19 simple question, yes or no, was part of  
20 the reason you wrote this because you  
21 thought Judge Gelbstein was going to get  
22 you expelled?  
23 A I wrote it because I didn't  
24 want an incident on the floor. That's  
25 why I wrote it.

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1 M.H. Capogrosso  
2 Q Mr. Capogrosso, is there  
3 anything stopping you from giving a yes  
4 or no answer to this question?  
5 A No. That's the reason I  
6 wrote it. You're asking me why I wrote  
7 it. That's the reason. That's the only  
8 reason I wrote it. I did not want to get  
9 expelled. I didn't want an incident. I  
10 don't want to get thrown out. I wanted  
11 to stay working. I wanted to make a  
12 living. I wanted to pay bills.  
13 Q And so is the answer yes,  
14 you believed that there was going to be  
15 an incident Judge Gelbstein was going to  
16 use to expel you?  
17 A I saw this guy Smart was not  
18 backing off. He was still with the  
19 harassment. I saw it. He didn't want to  
20 stop.  
21 Q Mr. Capogrosso --  
22 A I answered your question. I  
23 wrote it because I -- I wrote -- I gave  
24 you the reasons why, I did not want an  
25 incident on this floor.

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1 M.H. Capogrosso  
 2 That's the last time I'm  
 3 going to answer this question.  
 4 Q Well, Mr. Capogrosso, I'm  
 5 going to ask you again one more time to  
 6 please answer with a yes or a no. When  
 7 you wrote this letter, were you worried  
 8 that Judge Gelbstein was going to cause  
 9 an incident to get you expelled?  
 10 A I was worried that there  
 11 would be an incident on the floor.  
 12 That's what I was worried about.  
 13 Q But you didn't know if it  
 14 would be something Judge Gelbstein would  
 15 cause?  
 16 A Listen, I just didn't want  
 17 an incident, that's it. I saw  
 18 Gelbstein --  
 19 Q So why is it -- but why is  
 20 it so hard to get a yes or a no out of  
 21 you, Mr. Capogrosso?  
 22 A I told you, I've given you  
 23 the reason I wrote this letter. I didn't  
 24 want an incident on the floor. I did not  
 25 want it. I wanted to work.

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1 M.H. Capogrosso  
 2 Q Okay, but that again is not  
 3 the question. Why can't you answer --  
 4 A No.  
 5 Q -- with a yes or a no?  
 6 A I'm going to object right  
 7 now. You're badgering. I gave you the  
 8 reason I wrote this letter.  
 9 Q All right.  
 10 A You're badgering me. You've  
 11 asked it seven times, eight times. I  
 12 gave you my answer. I did not want an  
 13 incident. I'm begging for relief. I  
 14 want to work. I want to pay bills. I  
 15 want to make my clients happy.  
 16 Q You can object, but I just  
 17 want to put on the record my question is  
 18 yes or no, did you believe that when you  
 19 wrote this letter that Judge Gelbstein  
 20 was trying to manufacture an incident to  
 21 get you expelled and you're not willing  
 22 to answer that yes or no question; is  
 23 that correct?  
 24 A Well, I truly believe  
 25 that -- I'll tell you when I truly

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1 M.H. Capogrosso  
 2 believed that, when he approached me on  
 3 the afternoon of May 8. On the afternoon  
 4 of May 8 --  
 5 Q I'm not asking about that.  
 6 A Well, on --  
 7 Q I'm asking you about --  
 8 A Well, on that date when he  
 9 told me can't you go practice somewhere  
 10 else, I saw what you wrote about me, I'm  
 11 implicit, incapable and incompetent, I  
 12 believe he wanted me out. At that point  
 13 in time, yes.  
 14 And when I wrote this  
 15 letter, all I wanted was for the  
 16 harassment to stop, but when he  
 17 approached me on May 8 and told me can't  
 18 you go practice someplace else and then  
 19 on May 11 Smart approaches me, yes, then  
 20 I knew he wanted me out.  
 21 Q I'm not asking about that.  
 22 I'm asking about now when you wrote this  
 23 letter.  
 24 A When I wrote this letter, I  
 25 just wanted the harassment to stop for

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1 M.H. Capogrosso  
 2 the tenth time.  
 3 Q So can you give me a yes or  
 4 a no answer to the question?  
 5 A I don't recall what I  
 6 thought. I wanted the harassment just to  
 7 stop, that's what I wanted. I wanted to  
 8 work. I didn't want defendant Gelbstein  
 9 to laugh and giggle at me and tell me a  
 10 spade is a spade. I did not want that.  
 11 Q All right.  
 12 A I wanted to stop the  
 13 harassment.  
 14 Q You've once again refused to  
 15 answer yes or no and I'm just going to  
 16 let you know and I'm going to put on the  
 17 record that we are going to go back and  
 18 we are going to have to consider whether  
 19 to file a motion to compel.  
 20 In the meantime, let's move  
 21 on.  
 22 MS. REPORTER: You know  
 23 what, if you still have an hour left,  
 24 I need a five minute break. I'm at  
 25 350 pages --

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1 M.H. Capogrosso  
 2 MR. THOMPSON: Ms.  
 3 MacDonald --  
 4 MS. REPORTER: Yes. Let's  
 5 take a five minute break.  
 6 MR. THOMPSON: Sure. That's  
 7 fine. We'll be back at 4:33.  
 8 MR. VIDEOGRAPHER: The time  
 9 is 4:28. We are off the record.  
 10 (A short recess was taken.)  
 11 MR. VIDEOGRAPHER: The time  
 12 is 4:33. We are on the record.  
 13 Q Mr. Capogrosso, you still  
 14 see that we have Exhibit 28 up?  
 15 A Yes.  
 16 MR. THOMPSON: And,  
 17 Ms. MacDonald, in case we didn't mark  
 18 it as Exhibit 28, let's please do  
 19 that.  
 20 Q You write in this letter  
 21 that upon completion of the anger  
 22 management course you were allowed to  
 23 practice law in all DMV courts on an  
 24 equal and unbiased standing with all  
 25 other attorneys in the DMV; is that

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1 M.H. Capogrosso  
 2 correct?  
 3 A That was my assumption, yes.  
 4 Q You say it was your  
 5 assumption. What do you mean by that?  
 6 A I'm a lawyer. I'm licensed  
 7 in the State of New York. I should be  
 8 treated like every other lawyer. I see  
 9 no reason why I shouldn't be. I should  
 10 be held to the same standard as every  
 11 other lawyer practicing, no different. I  
 12 took my course that I needed to take. I  
 13 should be held on the same standard as  
 14 every other lawyer.  
 15 Q But, in fact, you weren't  
 16 quite on the same standing because you  
 17 had been warned that any further incident  
 18 would lead to your expulsion; isn't that  
 19 true?  
 20 A Well, that was an improper  
 21 warning in my opinion. I should be  
 22 treated like any other lawyer, any other  
 23 lawyer.  
 24 Q So why was it improper for  
 25 DMV to warn you that further incidents

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1 M.H. Capogrosso  
 2 would lead to an expulsion?  
 3 A Well, I don't know why they  
 4 threw that letter to me. Like I said,  
 5 they threw it at me two days before I was  
 6 to go back to the DMV. I agreed to  
 7 nothing but to take an anger management  
 8 course, that's it.  
 9 Q Well, once again --  
 10 A I took the course. I should  
 11 be treated like every other lawyer, not  
 12 on a special, you know, special -- I  
 13 should be treated like every other  
 14 lawyer. That's all I agreed to was take  
 15 a course.  
 16 I wouldn't have agreed to  
 17 anything else if I knew this letter was  
 18 going to be thrown at me.  
 19 Q Mr. Capogrosso, you write  
 20 that "On numerous occasions your security  
 21 guard Dave Sparks told me to go F  
 22 myself."  
 23 A I didn't know his name at  
 24 that point. It's Smart, not Sparks. I  
 25 didn't know his last name.

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1 M.H. Capogrosso  
 2 Q How did you not know his  
 3 last name at this point?  
 4 A I didn't know it.  
 5 Q You had been interacting  
 6 with him for years you said.  
 7 A We all knew him by David. I  
 8 never talked to him about his last name.  
 9 I know people said S Smart something or  
 10 Smarks or something. I thought it was  
 11 Sparks.  
 12 I knew him -- I knew him as  
 13 the security guard, that's it. I know  
 14 his first name was David.  
 15 Q When you --  
 16 A That's what I knew.  
 17 Q When you write,  
 18 Mr. Capogrosso, when you write "Will  
 19 provide proof upon request," what proof  
 20 would you have provided?  
 21 A I sent you all my letters,  
 22 all my -- all the complaints I filed with  
 23 Gelbstein.  
 24 Q So the proof would have been  
 25 your own letters to Judge Gelbstein?

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1 M.H. Capogrosso  
2 A Yes and my testimony. The  
3 fact that there was a video --  
4 Q Okay.  
5 A That I stated to Gelbstein  
6 the man pushed me from behind in June of  
7 2012. They stole money from me.  
8 Q And the same question for  
9 item number 2 when you talk about  
10 instances where Sparks redirected other  
11 clients who had come looking for you to  
12 other attorneys or interfered with his  
13 conversations, the proof there would have  
14 been your statements as well?  
15 A Yeah. I had an affidavit I  
16 filed with -- I think I sent it to you  
17 also, yes and I saw him doing it.  
18 Q So here on page 2 you see  
19 and I'm going to highlight your  
20 statement.  
21 A Yeah. Go ahead.  
22 Q "I've made numerous  
23 complaints to Judge Gelbstein. His  
24 response has been a spade is a spade.  
25 His words not mine. He laughs and

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1 M.H. Capogrosso  
2 giggles."  
3 A That's true. That's  
4 absolutely a true statement, absolutely  
5 true.  
6 Q Well, he denied it  
7 yesterday; didn't he?  
8 A It's an absolutely true  
9 statement. He took no action in response  
10 to these. He knew what I had to go  
11 through back in 2011 with Yaakov Brody  
12 and that incident.  
13 Q Mr. Capogrosso, that's not  
14 the question.  
15 A He took no action --  
16 Q The question --  
17 A -- to respond to this.  
18 Q Sir, the question is he  
19 denies it; correct?  
20 A I don't know if he denied  
21 it. That an absolutely true statement.  
22 That's what he said to me.  
23 Q Were you not at the  
24 deposition yesterday when he denied it?  
25 A I'm sure he denied it at the

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1 M.H. Capogrosso  
2 deposition, but that's what he said to me  
3 this man.  
4 Q So what can you tell me  
5 about the conversation in which he made  
6 that statement allegedly?  
7 A I said can you tell this guy  
8 to leave me alone, Smart and now I know  
9 his name is David. Now I know his name  
10 is Smart. I don't want an incident on  
11 this floor. I don't want anything to  
12 happen. I want to practice law. I want  
13 to make money. I want to make my clients  
14 happy. I said can't you stop Smart from  
15 doing this. And three inches from my  
16 face what's the problem? Fuck you,  
17 you're the problem. He laughs and  
18 giggles at me and tells me a spade is a  
19 spade.  
20 Q So when was this --  
21 A It happened outside of his  
22 chamber door one day. He's walking, I  
23 said judge, I got to talk to you for a  
24 minute. This guy doesn't want to stop.  
25 Can you tell him to leave me alone? What

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1 M.H. Capogrosso  
2 else do I need to do as a lawyer to tell  
3 a judge to have a security guard leave a  
4 hard working attorney alone and all he  
5 does this judge is laugh and giggle at me  
6 and tell me a spade is a spade.  
7 Q So, Mr. Capogrosso, when was  
8 this conversation in which he said this?  
9 A Right before I wrote this  
10 letter. After he said that to me, I said  
11 I had enough. I said I had enough with  
12 this guy. Not only is he having lunch  
13 with ticket brokers, pleading people  
14 guilty, telling me he doesn't know what  
15 these ticket brokers do for a living, now  
16 he's telling me a spade is a spade and he  
17 laughs and giggles.  
18 This guy should not be on  
19 the bench.  
20 Q And so it's your testimony  
21 that he said this shortly before you  
22 filed the letter?  
23 A Absolutely. When he said  
24 that to me, I said that's enough. I got  
25 to get --

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1 M.H. Capogrosso  
2 Q So you --  
3 A I have no protection down  
4 here from this judge whatsoever, none.  
5 Q So in March of 2015?  
6 A Yeah. That's when he said  
7 it to me. I wrote the letter. I'm  
8 seeking relief. I don't want an incident  
9 on this floor. Maybe your office could  
10 help me.  
11 What your office does is  
12 they lose the -- they lose it in the  
13 mailroom.  
14 Q And what is -- what do you  
15 think a spade is a spade means?  
16 A Mr. Smart's a black man.  
17 What I believe is that this Judge  
18 Gelbstein is as prejudiced and biased as  
19 they come because that's what he said to  
20 me and Mr. --  
21 Q And what's your basis for  
22 that belief?  
23 A Mr. Smart is a black man and  
24 he was making fun of Mr. Smart's, um,  
25 Mr. Smart. He's making fun of Mr. Smart.

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1 M.H. Capogrosso  
2 Now, I've dealt with all  
3 types of clients down there, all types of  
4 clients, all different nationalities,  
5 races. Not one, not one client made a  
6 complaint against me that I made an  
7 offensive or anti-Semitic or racist  
8 remark.  
9 But this judge, if you want  
10 to call him a judge, Gelbstein, laughs  
11 and giggles and tells me a spade is a  
12 spade.  
13 Q Do you think he could have  
14 been talking about you when he said a  
15 spade is a spade?  
16 A Absolutely not. I'm  
17 complaining about Smart and he laughs and  
18 giggles. Why would he call me a spade?  
19 Why would he call me a spade?  
20 Q I don't know. You tell me.  
21 A I don't know why. I'm  
22 talking about Smart at this point. I'm  
23 complaining to him about Smart, that he  
24 gave me the sign of a cross and a spear  
25 hand and now he's getting -- and now he

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1 M.H. Capogrosso  
2 doesn't want to stop with the harassment.  
3 Q Can I ask, what is a spear  
4 hand?  
5 A (Indicating). It's  
6 something that can be very deadly. It's  
7 a straight right hand like this  
8 (indicating). Pointed right at somebody,  
9 you can actually take a guy's eye out  
10 with it if you do it right.  
11 Q Can you make a spear hand  
12 and poke somebody's eye out?  
13 A Oh, absolutely. Would I,  
14 no. Could I, yes, if I had to. If I  
15 had, there's a guy with a knife or a gun  
16 at me, absolutely. Coming at me with a  
17 knife, absolutely I would do it in a  
18 heartbeat.  
19 Q And --  
20 A I do whatever I can to avoid  
21 that situation.  
22 Q And does Mr. Smart practice  
23 any martial art that uses a spear hand to  
24 your knowledge?  
25 A I have no idea. I'm telling

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1 M.H. Capogrosso  
2 you what he did. He directed his hand  
3 directly at me like this (indicating),  
4 stood up and gave me the sign of a cross.  
5 Q So let me ask you, if you  
6 were raising -- if you had all these  
7 concerns about Judge Gelbstein, you know,  
8 Tanya Rabinovich having lunch with Jewish  
9 ticket brokers, adjourning cases,  
10 entering guilty pleas, why didn't you put  
11 any of that stuff in this letter?  
12 A In this letter?  
13 Q Yes.  
14 A I only cared about me and  
15 working, seriously. You know, how you  
16 make your living, I don't care what you  
17 do. I don't get involved in other  
18 people's businesses, I really don't. You  
19 want to be a corrupt judge, be a corrupt  
20 judge. You want to be a taxicab driver,  
21 be a taxicab driver, God bless. You want  
22 to be a -- you want to work at a strip  
23 club as a stripper, be a stripper. I  
24 don't care. You want to be a lawyer, be  
25 a lawyer, but be straight.

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1 M.H. Capogrosso  
 2 I care about me and making  
 3 my living. If you want to be a corrupt  
 4 judge, be a corrupt judge. I don't want  
 5 to get involved with it. I just want to  
 6 do --  
 7 Q So I understand that --  
 8 A I want to do my job.  
 9 Q -- but the question is if  
 10 you were complaining about Judge  
 11 Gelbstein, why not include that in this  
 12 letter?  
 13 A Because I cared about me, me  
 14 keeping my job. That's what I cared  
 15 about, for me to keep -- I don't care  
 16 what Judge Gelbstein does. If he wants  
 17 to make his living -- make a living on  
 18 the side working with ticket brokers, go  
 19 right ahead and do it. I could care  
 20 less. Do what you want to do. You want  
 21 to be a corrupt judge --  
 22 Q Were you --  
 23 A -- be a corrupt judge. What  
 24 I care about --  
 25 Q Were you worried that you

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1 M.H. Capogrosso  
 2 would lose your job?  
 3 A I was worried about that I  
 4 wasn't -- that there was going to be an  
 5 incident on that floor with this guy  
 6 Smart and I wanted to keep working and  
 7 paying bills and representing my clients.  
 8 Q Let me ask you, you write  
 9 "I" -- you write "I do not seek to  
 10 litigate, but I will if I have to." What  
 11 lawsuit would you have filed?  
 12 A This one. I don't want to  
 13 get thrown out again. I don't want to  
 14 leave. I don't want to leave the  
 15 Brooklyn TVB. I don't want to. I want  
 16 to work. I want the harassment to stop.  
 17 I don't want Gelbstein to laugh and  
 18 giggle at me. I want him to put an end  
 19 to it.  
 20 I want your office to maybe  
 21 put an end to it so I can get up in the  
 22 morning and go make a living.  
 23 Q And you write "Please take  
 24 any and all action to expedite and  
 25 resolve issues," but you don't say what

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1 M.H. Capogrosso  
 2 that action would be. What did you  
 3 expect Ms. Prickett-Morgan to do?  
 4 A I don't know. How about  
 5 respond to the letter? I was told to go  
 6 back to the DMV, I was allowed to, right.  
 7 I didn't expect to have all this  
 8 harassment thrown at me when I went back,  
 9 I did not.  
 10 We entered into a  
 11 stipulation agreement, right. I was  
 12 allowed to go back. Well, give me the  
 13 chance to practice law, practice it  
 14 properly without the harassment. Live up  
 15 to your side of the bargain. You allowed  
 16 me back. I took an anger management  
 17 course. I hired a lawyer. It cost me  
 18 \$10,000 in total.  
 19 I did my part of the story.  
 20 Live up to your part. Put an end to this  
 21 harassment so I can make my living down  
 22 there and your office lost my complaint  
 23 in your mailroom for about three to four  
 24 weeks.  
 25 Q Was it our job --

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1 M.H. Capogrosso  
 2 A Live up to your part.  
 3 Q Was it our office's job to  
 4 take care of your complaint?  
 5 A Listen, no -- I don't know.  
 6 You tell me. You're the Attorney  
 7 General.  
 8 Q No is what I would tell you.  
 9 A All right. Fine.  
 10 Q This is --  
 11 A Fine. So you sent the  
 12 complaint back to Gelbstein, nobody wants  
 13 to hear it, so I have no relief. There's  
 14 no relief being afforded to me. I got a  
 15 judge who laughs and giggles. The  
 16 Attorney General doesn't want to get  
 17 involved, doesn't even respond to it, to  
 18 my letter. She could have responded and  
 19 said this is not our job, it's not.  
 20 I make complaints. I called  
 21 the grievance. Nobody wants to listen.  
 22 That's what I did.  
 23 You don't want to respond to  
 24 the letter, don't respond. It's not your  
 25 job, it's not your job. You don't want

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1 M.H. Capogrosso  
 2 to control the actions of the DMV, you  
 3 don't have any control over it, fine.  
 4 Q Mr. Capogrosso, you  
 5 represented in your complaint and in your  
 6 interrogatory responses that later on  
 7 Judge Gelbstein mentioned this letter to  
 8 you; is that correct?  
 9 A Absolutely, May 8. May 8.  
 10 Q And can you tell me what  
 11 happened?  
 12 A He approaches me in the  
 13 presence of Danielle Calvo. I think  
 14 Calvo was there. He said can't you go --  
 15 can't you go practice somewhere else? I  
 16 saw what you wrote about me, I'm  
 17 complicit, incapable and incompetent.  
 18 May 8, Friday afternoon.  
 19 May 11, he's conveniently  
 20 not in the Brooklyn TVB.  
 21 Q And he just came up and said  
 22 that out of nowhere?  
 23 A I -- yeah. He walks -- he  
 24 walks up to me. He says can't you go  
 25 practice someplace else? I saw what you

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1 M.H. Capogrosso  
 2 wrote about me, I'm complicit, incapable  
 3 and incompetent.  
 4 Q And what did you say?  
 5 A I said no, I cannot. I have  
 6 too many clients. I cannot, my exact  
 7 words to him, I cannot. I have too many  
 8 clients who depend on me. I had 850  
 9 clients on my docket at that point, 850.  
 10 How do I just pick up and leave?  
 11 Q And did anyone witness this  
 12 statement by Mr. Gelbstein?  
 13 A I think Calvo was there. I  
 14 believe Calvo was there. That's what I  
 15 wrote in -- Calvo I believe was there,  
 16 yes.  
 17 Q And is this statement by  
 18 Mr. Gelbstein documented in any way?  
 19 A I think I wrote it in my  
 20 complaint, didn't I?  
 21 Q Yes. You wrote it in your  
 22 complaint, but is there any contemporary  
 23 documentation of this statement?  
 24 A Well, I wrote it in my  
 25 complaint. Contemporary documentation?

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1 M.H. Capogrosso  
 2 That's what he said to me. That's what  
 3 the man said to me on May 8.  
 4 On May 11 he's not in the  
 5 DMV. Smart approaches me, creates this  
 6 incident. He loses the videotape,  
 7 doesn't keep it. Calvo doesn't even view  
 8 the videotape.  
 9 Q So --  
 10 A Traschen doesn't view the  
 11 videotape and I'm thrown out.  
 12 Q Mr. Capogrosso, is it  
 13 correct to say that the only evidence of  
 14 this statement is your complaint which  
 15 you filed three years later?  
 16 A That's what happened.  
 17 That's what he said to me. I remember  
 18 it.  
 19 Q So yes?  
 20 A I remember that statement as  
 21 if it was yesterday. That's exactly what  
 22 this man said to me, can't you go  
 23 practice somewhere else? I saw what you  
 24 wrote about me, I'm complicit, incapable  
 25 and incompetent. I'll remember it to the

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1 M.H. Capogrosso  
 2 day I die. That's what he said to me.  
 3 Q But Mr. Capogrosso that's  
 4 not the question. The question is is the  
 5 only evidence of this statement your  
 6 complaint three years later, yes or no?  
 7 A I took notes of that. I  
 8 took -- I took notes of a lot of stuff  
 9 that happened.  
 10 Q Well, I don't think you've  
 11 produced those notes; have you?  
 12 A That note, no, but I wrote  
 13 down a lot of these things that happened.  
 14 Q So why didn't you produce  
 15 them?  
 16 A Well, because they're my  
 17 notes.  
 18 Q Don't you think they would  
 19 be relevant and --  
 20 A They're my notes. I  
 21 expressed my notes in my complaint.  
 22 Q Do you still have these  
 23 notes?  
 24 A I don't know. I'd have to  
 25 go look at them. I expressed my notes in

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1 M.H. Capogrosso  
 2 my complaint.  
 3 Q Did you look through your  
 4 notes in responding to our document  
 5 requests?  
 6 A I looked through everything.  
 7 Q And so why did you decide  
 8 not to produce them?  
 9 A I have notes that I made  
 10 with respect to my complaint. While  
 11 these things were happening, I was  
 12 taking -- I took down notes, yes.  
 13 Q And don't you think those  
 14 notes would be relevant to the case?  
 15 A I don't know. No, it was  
 16 expressed in my complaint. Everything  
 17 that was in my notes that I needed to say  
 18 I stated in my complaint.  
 19 Q So were these notes that you  
 20 made in 2015 at the time or were these  
 21 notes that you made in 2018 when you were  
 22 writing your complaint?  
 23 A 2015. Right after all this  
 24 stuff happened, I started taking notes of  
 25 everything that happened, okay. I said

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1 M.H. Capogrosso  
 2 this is not right. What happened here is  
 3 not right.  
 4 Q So Mr. Capogrosso, is it  
 5 your testimony that you had notes from  
 6 2015 that are contemporaneous to these  
 7 events and you didn't produce them?  
 8 A I produced them in my  
 9 complaint. Whether I still have them, I  
 10 don't know. I don't think I do.  
 11 Q Did you destroy them?  
 12 A I put them in my complaint,  
 13 yes.  
 14 Q So yes, you destroyed them?  
 15 A I don't know if I still have  
 16 them or not. I don't think I have them,  
 17 no. I don't know.  
 18 Q So then what happened to  
 19 them?  
 20 A I expressed them in my  
 21 complaint.  
 22 Q So you wrote your complaint  
 23 and then you destroyed the documents that  
 24 it was based on; is that correct?  
 25 A I don't know. I don't

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1 M.H. Capogrosso  
 2 recall if I destroyed them or not. I  
 3 don't know if I still have them.  
 4 Q Can I ask you to --  
 5 A I know I expressed  
 6 everything in my complaint.  
 7 Q Can I ask you to make a  
 8 search for those notes now and produce  
 9 them if you have them?  
 10 A Right at this moment in  
 11 time, no.  
 12 Q I mean no, now we are in the  
 13 deposition, but can I ask you before the  
 14 close of discovery on Monday to look  
 15 through what you have, see if you have  
 16 those notes and produce them? This is --  
 17 please treat this as a formal request.  
 18 We can make that request in writing if  
 19 you'd like, but we are requesting those  
 20 notes and others.  
 21 A For the notes that I made,  
 22 I'll see if I have notes. I don't know  
 23 if they're dated. I know I wrote a lot  
 24 of stuff down while this was happening,  
 25 but everything that happened I expressed

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1 M.H. Capogrosso  
 2 in my complaint.  
 3 Q And any other notes that are  
 4 relevant to this case.  
 5 A If I have them -- if I have  
 6 it, I will produce it. But I know I did  
 7 take notes, I did use those notes to  
 8 write my complaint, I did do that.  
 9 Q And if you don't have those  
 10 notes now, what happened to them?  
 11 A I don't recall.  
 12 Q You don't recall? They'd  
 13 just be gone?  
 14 A I don't know. I don't --  
 15 there's a lot of paperwork involved. I  
 16 don't know.  
 17 Q All right. Let's -- let me  
 18 put up a new document. Do you see this  
 19 document?  
 20 A Well, let me see the bottom  
 21 of it, see who wrote it, then I'll  
 22 remember it more.  
 23 Q Sure.  
 24 A Tahir, yeah.  
 25 Q Do you recognize this

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1 M.H. Capogrosso  
2 document?  
3 A Yeah. It's about Tahir  
4 saying I used the word shit. I never  
5 used the word shit ever. I used the word  
6 eesha. I told you that.  
7 Q And what is this document?  
8 A This is a complaint by  
9 Tahir.  
10 Q And this is marked --  
11 A Which I never got an  
12 opportunity to respond to or supply an  
13 affidavit in relation.  
14 Q And Mr. Capogrosso this is  
15 Bates stamped DMV-0000016; correct?  
16 A Yes.  
17 Q Mr. Tahir wrote that you got  
18 into an argument about the placement of  
19 his bag; is that correct?  
20 A When I came back -- no.  
21 This is what happened here. When you --  
22 Q What happened?  
23 A Well, in this little  
24 attorneys' room that we got in DMV, I  
25 said it's about six to eight feet long,

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1 M.H. Capogrosso  
2 five feet wide. There's a chair in the  
3 back, a chair in the back, one chair,  
4 otherwise there's two benches.  
5 Now, all the attorneys, I  
6 don't know why they can't do this, but  
7 they put their bags on top of -- on top  
8 of the benches. There's no place to sit  
9 and then there's a chair in the back.  
10 There's a chair in the back.  
11 Now, Tahir thinks this is  
12 his chair and only he can sit in it. If  
13 you sit in it, he gets all upset. It's  
14 only his chair. He's the only person  
15 allowed to sit in it. I don't believe in  
16 that. Anybody can sit in a chair in the  
17 attorneys' room. But he believes because  
18 he's the senior attorney there, the  
19 oldest guy, it's his chair, don't touch  
20 it, don't sit on it.  
21 On that day, on May 5, I  
22 walk in the attorney room. I got up and  
23 I'm getting my coat or I'm getting  
24 something and I get a phone call from a  
25 client, so I always answer the phone call

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1 M.H. Capogrosso  
2 right away from the client because  
3 they're concerned about their license,  
4 right.  
5 I sit on the chair. He  
6 comes back. Now, there's nothing on the  
7 chair. The chair is empty. It's a blank  
8 chair. There's nothing on the chair. I  
9 sit on the chair to answer the phone  
10 call. I'm a little tired at the end of  
11 the day, right. I'm tired, I want to sit  
12 down and all the benches have the bags  
13 from the attorneys on it. You can't sit  
14 on the bench.  
15 Tahir comes in and goes  
16 crazy. Why are you sitting on my chair?  
17 This is my chair. I mean he had  
18 conflicts with other attorneys on this,  
19 too. Nobody's allowed to -- I sit where  
20 I want to sit. You don't own the chair.  
21 This is a chair in the attorneys' room.  
22 You don't own it.  
23 And that's what caused this  
24 incident on May 5, I sat on a chair in an  
25 attorneys' room that only Tahir could sit

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1 M.H. Capogrosso  
2 on. That's what happened.  
3 Q And then what happened?  
4 What did he do? What did you say?  
5 A He started screaming and  
6 yelling at me. He said I used the word  
7 shit. Actually moved his bag on the  
8 other bench. He was looking at me. He  
9 came in and yelled at me don't touch my  
10 bag. Whose is this? I said I'm going to  
11 move my bag.  
12 He mentioned the chair. I  
13 was sitting on his chair. He was upset  
14 that I was sitting on his chair. That  
15 was the whole deal with this thing. And  
16 he tells me not to touch his stuff.  
17 Well, I'm sorry, I'm allowed to sit in a  
18 chair. You don't own the chair. That's  
19 what happened here.  
20 Q Did you call him shit?  
21 A I said eesha. I don't use  
22 the word shit. This man uses the word  
23 mouter fucker like you don't believe.  
24 Ever other time he speaks, it's mother  
25 fucker this, mother fucker that. That's

<p style="text-align: right;">Page 454</p> <p>1 M.H. Capogrosso</p> <p>2 acceptable with this attorney to use</p> <p>3 those words.</p> <p>4 I said the word eesha. I</p> <p>5 never said the word shit.</p> <p>6 Q Mr. Tahir writes that you</p> <p>7 think -- he thinks that you thought that</p> <p>8 he was, quote, "an easy and soft target."</p> <p>9 Did you think that?</p> <p>10 A What do you mean, in a</p> <p>11 boxing gym? In a box -- I mean an easy</p> <p>12 and soft target for what?</p> <p>13 Q Harassment.</p> <p>14 A And easy and soft target?</p> <p>15 I'm there to do a job. I'm not there to</p> <p>16 harass a lawyer. I sat in his chair.</p> <p>17 Another paranoid lawyer, an insecure</p> <p>18 lawyer. It's his insecurities, not mine,</p> <p>19 his insecurities.</p> <p>20 I'm a -- he's a soft target</p> <p>21 for what? What am I going -- what am I</p> <p>22 in a boxing ring with this guy? We are</p> <p>23 in a lawyers' -- we are in a lawyers'</p> <p>24 room. We are in a courthouse. He's a</p> <p>25 soft target? I don't even know what that</p>	<p style="text-align: right;">Page 456</p> <p>1 M.H. Capogrosso</p> <p>2 practicing. I think he was a Muslim.</p> <p>3 MR. THOMPSON: Ms.</p> <p>4 MacDonald, if I can ask you in case I</p> <p>5 didn't already to -- (inaudible)</p> <p>6 MS. REPORTER: I don't know</p> <p>7 if you were speaking. You completely</p> <p>8 cut out.</p> <p>9 MR. THOMPSON: In case you</p> <p>10 didn't already mark it, I was asking</p> <p>11 you to mark that document for</p> <p>12 Mr. Tahir as Exhibit 29.</p> <p>13 (The above-referred-to</p> <p>14 statement was marked as Exhibit 29</p> <p>15 for identification as of this date.)</p> <p>16 Q Mr. Capogrosso, can you see</p> <p>17 the document on the screen now?</p> <p>18 A Yes. That's from Beer,</p> <p>19 right, on May 5?</p> <p>20 Q Do you recognize this</p> <p>21 document?</p> <p>22 A You have to scroll down.</p> <p>23 Let me read through it. I've seen this</p> <p>24 document. You're going too fast. Can</p> <p>25 you go up, please? You have to let me</p>
<p style="text-align: right;">Page 455</p> <p>1 M.H. Capogrosso</p> <p>2 means.</p> <p>3 Q Is Mr. Tahir a big guy or</p> <p>4 was he?</p> <p>5 A He's a frail guy. He drank</p> <p>6 a lot. I was over his apartment. He</p> <p>7 drinks like a fish. He drank a ton.</p> <p>8 Q Was he tall, short, fat,</p> <p>9 skinny --</p> <p>10 A He was thin as a rail.</p> <p>11 Q -- muscular?</p> <p>12 A He was thin as a rail.</p> <p>13 Q How tall was he?</p> <p>14 A He was about my height, but</p> <p>15 he was and he liked to drink. He drank a</p> <p>16 ton.</p> <p>17 MR. THOMPSON: All right.</p> <p>18 Ms. MacDonald, let me ask you to --</p> <p>19 A Before I drove him home, he</p> <p>20 used to go to the liquor store to pick up</p> <p>21 liquor.</p> <p>22 Q Was Mr. Tahir a practicing</p> <p>23 Muslim?</p> <p>24 A I don't know. I think he</p> <p>25 was Muslim, but I don't know if he was</p>	<p style="text-align: right;">Page 457</p> <p>1 M.H. Capogrosso</p> <p>2 read it. You're going too fast.</p> <p>3 I have this. You're not</p> <p>4 allowing me to refer to the documents I</p> <p>5 have, so I have to read it, but you have</p> <p>6 to -- you have to direct me to what you</p> <p>7 want me to read.</p> <p>8 I do reco -- I do recognize</p> <p>9 the document.</p> <p>10 Q Okay. And what is the</p> <p>11 document?</p> <p>12 A I think it was -- can you</p> <p>13 see who's the signature on the bottom?</p> <p>14 Is there a signature on it?</p> <p>15 It's some type of affidavit</p> <p>16 against me. All right. It's some type</p> <p>17 of -- it's from Michael beer. All right.</p> <p>18 Fine.</p> <p>19 Q And this document's marked</p> <p>20 DMV-0000017; correct?</p> <p>21 A Yeah.</p> <p>22 MR. THOMPSON: And,</p> <p>23 Ms. McDonough, let me ask you to mark</p> <p>24 this as Exhibit 31 and yes, I know we</p> <p>25 just jumped one. Sorry about that.</p>

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1 M.H. Capogrosso  
 2 (The above-referred-to  
 3 statement was marked as Exhibit 31  
 4 for identification as of this date.)  
 5 Q Who is Michael Beer?  
 6 A He's an attorney down there.  
 7 Q Did you have a good  
 8 relationship?  
 9 A I mean I knew him. I didn't  
 10 really talk to him. I didn't talk to a  
 11 lot of the lawyers. I was there to do my  
 12 job, that's it.  
 13 Q Mr. Beer writes on May 5,  
 14 2015, which is the same day as the  
 15 incident with Mr. Tahir, that he came  
 16 into the attorneys' room and that as soon  
 17 as he did, "I was verbally accosted with  
 18 the demand of don't touch my fucking  
 19 stuff, don't stuff my fucking stuff."  
 20 A No. I never said that. I  
 21 have never said that.  
 22 Q You never said that?  
 23 A No.  
 24 Q Is he lying?  
 25 A On that statement, yes. I

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1 M.H. Capogrosso  
 2 would never say that. I always carried  
 3 my stuff with me for the most part.  
 4 Q He says that he didn't touch  
 5 your stuff. You asked about a camera.  
 6 Why did you ask about a camera?  
 7 A There was no camera. There  
 8 was no camera, no. I did accuse Smart of  
 9 moving -- of tampering with my files, I  
 10 did do that and he was doing it because I  
 11 saw them moved when I left them in the  
 12 attorneys' room and I saw him go in there  
 13 and do it. I did see that.  
 14 But I never said anything  
 15 about putting a camera in the attorneys'  
 16 room and I never accused Beer. Beer was  
 17 actually a very nice lawyer. He was a  
 18 nice guy.  
 19 Q He says that you said piece  
 20 of shit, piece of shit at him, which he  
 21 heard you state to others many times in  
 22 the past. Did you say that --  
 23 A No.  
 24 Q -- on May 5?  
 25 A No. I never --

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1 M.H. Capogrosso  
 2 Q No?  
 3 A I never used the word shit.  
 4 If these attorneys would have just asked  
 5 me, I would have told them like I'm  
 6 telling you what I was saying. I said  
 7 eesha. It was never the word shit.  
 8 Now if these attorneys would  
 9 have just asked me what I was saying  
 10 under my breath, which I'm allowed to do,  
 11 I would have explained it to them.  
 12 Q So Mr. Beer writes that he  
 13 did ask you. He said "Excuse me, what  
 14 did you just say to me" and you responded  
 15 that "It didn't relate to you. I'm angry  
 16 at a judge."  
 17 Do you remember that?  
 18 A I might have been angry at a  
 19 judge's decision. A lot of times we got  
 20 angry at judge's decisions. I really  
 21 felt -- you know, I really was very  
 22 passionate about arguing and winning  
 23 cases for my clients, I was.  
 24 Sometimes when I thought a  
 25 judge really just did a bad job, I was

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1 M.H. Capogrosso  
 2 angry, yeah. I would get angry if a  
 3 judge made a bad decision, I really  
 4 would.  
 5 But if a judge made a good  
 6 decision and the cop, you know, did  
 7 everything right on the case, it was  
 8 fine, we all accepted it. But when I  
 9 thought a guy --  
 10 Q So did you --  
 11 A -- didn't get a fair chance  
 12 in a courtroom and no matter what you  
 13 did, I would get angry, of course I  
 14 would. I really took a very liking to my  
 15 clients and I felt badly that they lost.  
 16 I thought they should have won it, so  
 17 yeah, I was angry.  
 18 But did I say anything to  
 19 him, no, I didn't say anything to the  
 20 man.  
 21 Q And you didn't say piece of  
 22 shit, piece of shit?  
 23 A No, not to him. Not to him,  
 24 not to him.  
 25 Q Mr. Beer writes -- Mr. Beer

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1 M.H. Capogrosso  
 2 writes later that he left the room and  
 3 that the issue of don't touch my fucking  
 4 stuff was an ongoing issue all day.  
 5 Quote, "And I witnessed Mario Capogrosso  
 6 yelling at Mr. Tahir to not touch his  
 7 fucking stuff."  
 8 Does that refresh your  
 9 recollection at all about --  
 10 A No.  
 11 Q -- what happened on May 5?  
 12 A No. What I remember on  
 13 May 5 was one thing. I walked in that  
 14 attorneys' room to sit on a chair. It  
 15 was at the end of the day, to sit on a  
 16 chair or maybe I placed my bag on the  
 17 chair and Tahir said this is my chair and  
 18 get your stuff off it or don't sit on it,  
 19 but I know it involved Tahir's chair that  
 20 nobody was allowed to touch.  
 21 And maybe I put my bag on  
 22 the chair for a minute or I sat on the  
 23 chair for a minute or something to that  
 24 effect, but that was it and Tahir thought  
 25 that this chair, he owned the chair in

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1 M.H. Capogrosso  
 2 the room.  
 3 Q Mr. Beer writes --  
 4 A That's what happened on May  
 5 5.  
 6 Q So you never had an  
 7 altercation with Mr. Beer?  
 8 A Not that I recall, no. Beer  
 9 was a nice guy. He was a really nice  
 10 guy.  
 11 Q So why -- so you said that  
 12 he was lying about this. Why would  
 13 Mr. Beer lie?  
 14 A I don't know why. I know  
 15 what happened that day. I know exactly  
 16 what happened. There was a chair there.  
 17 I wanted to sit down in the chair. I  
 18 wanted to make a phone call. I was  
 19 tired. Maybe I stood up and put my bag  
 20 on the chair because there was nowhere  
 21 else to put the bag. Maybe I was still  
 22 on the phone and Tahir comes in and gets  
 23 all upset and maybe Tahir was trying to  
 24 move my bag, I don't know, off his  
 25 personal chair because nobody was allowed

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1 M.H. Capogrosso  
 2 to touch his chair.  
 3 And this is an attorneys'  
 4 room for all the attorneys, but nobody's  
 5 allowed to touch his chair or put  
 6 anything on his chair. So maybe I told  
 7 Tahir leave my bag alone.  
 8 Q Did you --  
 9 A But did I use those words,  
 10 no, I never said that, no.  
 11 Q Mr. Beer writes that you  
 12 started ranting that guy, alluding to  
 13 Gelbstein, threw out Chuck Willinger and  
 14 now Chuck Willinger is dead. What does  
 15 that mean?  
 16 A Well, Willinger was an  
 17 attorney when I first started. I have to  
 18 read it. Can you go back up?  
 19 Q Sure.  
 20 A Go back up.  
 21 Willinger was an attorney.  
 22 I never said for the judge to put a gun  
 23 to his head. Willinger was a guy that  
 24 was a lawyer down at the Brooklyn TVB  
 25 when I first got there and he had some

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1 M.H. Capogrosso  
 2 issues, Mr. Willinger. To say the least,  
 3 he had some issues and he wasn't -- he  
 4 was -- as I understand it, eventually we  
 5 became friends me and him, as I  
 6 understand he had issues with drugs, a  
 7 lot of drugs.  
 8 And he was making money at  
 9 the start, but then he got involved with  
 10 cocaine and he winds up committing  
 11 suicide. They found him dead on his bed  
 12 one day.  
 13 Q Sorry.  
 14 A He wasn't showing up for  
 15 cases because he was on so much drugs.  
 16 He wasn't showing up and Gelbstein threw  
 17 him out because he wasn't showing up for  
 18 some reason. I don't know why he threw  
 19 the guy out of the DMV.  
 20 And he never gave the guy a  
 21 hearing. Never gave him an opportunity  
 22 to at least, you know, give him a chance.  
 23 Q Is there an entitlement to a  
 24 hearing if you're thrown out of the DMV?  
 25 A Oh, no. It's my personal

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1 M.H. Capogrosso  
 2 opinion. If you're telling a guy he  
 3 can't show up, at least hear his story.  
 4 Give him a reason. I don't know if  
 5 you're entitled or not, but give the guy  
 6 a chance. Give him a fair chance, you  
 7 know.  
 8 Q So --  
 9 A I personally covered --  
 10 Q -- Mr. Beer -- I'm sorry.  
 11 A I covered cases for the guy  
 12 when he wasn't there. I covered his  
 13 cases, some of his cases. I tried the  
 14 best to help the guy out when he wasn't  
 15 there. You know, he was on drugs, what  
 16 are you going to do.  
 17 But at least give the man a  
 18 chance to, you know, clean up his act,  
 19 but he threw him out, that's it and  
 20 then --  
 21 Q Mr. Beer --  
 22 A But I never said the judge  
 23 put a gun to his head. That's  
 24 ridiculous.  
 25 Q Well, Mr. Beer writes -- he

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1 M.H. Capogrosso  
 2 doesn't say that you told the judge to  
 3 put a gun to his head. He says that you  
 4 said that if Judge Gelbstein was a man,  
 5 he would put a gun to his head.  
 6 A No. I never said that.  
 7 That's absolutely ridiculous. That's a  
 8 total lie. That's a lie. First of all,  
 9 I don't really give a darn about  
 10 Willinger. I felt bad for the man, you  
 11 know, but did I hang out with the guy,  
 12 no.  
 13 I mean, you know, he was a  
 14 lawyer, I was a lawyer. I felt bad for  
 15 the guy, he was on drugs and he died of  
 16 suicide, but that was -- you know, he  
 17 made the decision what to do with his  
 18 life.  
 19 Why would I -- why would I  
 20 tell Gelbstein put a gun to his head?  
 21 That's ridiculous.  
 22 Q Why would Mr. Beer be lying  
 23 about something like this?  
 24 A I don't know. I didn't say  
 25 that remark. I know Willinger should

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1 M.H. Capogrosso  
 2 have been given a hearing, that's what I  
 3 felt, an opportunity to at least give his  
 4 position before they threw him out,  
 5 especially what happened to me in  
 6 December of 2011, right, that's how I  
 7 felt.  
 8 He should have gave  
 9 Willinger at least an opportunity to at  
 10 least hear his side of the story, but  
 11 they didn't give him that opportunity so,  
 12 yeah, I felt bad for the man because I  
 13 was in the same predicament as he was.  
 14 Q Why --  
 15 A Did I tell the judge to put  
 16 a gun to his head, absolutely not.  
 17 Q Why were you in the same  
 18 predicament as Mr. Willinger?  
 19 A Because I got thrown out  
 20 with that guy Brody over there, right, in  
 21 December 2011 after Brody told me to go  
 22 fuck myself twice, without a hearing,  
 23 without anything, without an affidavit,  
 24 nothing.  
 25 I felt bad for the guy. I

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1 M.H. Capogrosso  
 2 did feel bad. I covered his cases as  
 3 best as I could. I didn't want to see  
 4 the guy, but I felt bad for him. He had  
 5 a real drug problem this guy. He wound  
 6 up dissolute, lost all his money. They  
 7 found him dead in his apartment one day.  
 8 I felt bad for the man. I truly did. We  
 9 are all attorneys. I felt bad for the  
 10 guy.  
 11 I didn't tell Gelbstein to  
 12 put a gun to his head. It's ridiculous.  
 13 I was in the same predicament as  
 14 Willinger. They threw me out, too. They  
 15 gave me no opportunity to respond to  
 16 anything.  
 17 Q Mr. Capogrosso, so we've  
 18 looked at reports from Tahir and  
 19 Mr. Beer. I'll represent to you that  
 20 there are two other reports that  
 21 corroborate you yelling at people about  
 22 touching your things and being verbally  
 23 abusive on this day, May 5, the other two  
 24 being from Kimberly Rivers and Danielle  
 25 Calvo.

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1 M.H. Capogrosso  
 2 Are they all lying about  
 3 you?  
 4 A Now, Kimberly Rivers would  
 5 have been -- I don't know. Let's address  
 6 them one at a time. I told you what  
 7 happened that day. I told you what  
 8 happened that day. I was in the  
 9 attorneys' room, there was a chair in the  
 10 attorneys' room. I'm telling you what  
 11 I -- what I recall. Either I sat on the  
 12 chair or I put my bag on the chair.  
 13 Tahir thought this is only his chair,  
 14 that nobody could touch it. He walks in  
 15 the room, starts moving my -- tells me  
 16 to -- and I'm sitting in the chair.  
 17 At some point I might have  
 18 gotten up and put my briefcase on it and  
 19 he starts moving my briefcase. I said  
 20 don't touch my briefcase and he shouldn't  
 21 have touched it. He shouldn't have  
 22 touched it. He doesn't own the chair in  
 23 the lawyers' room. He doesn't own it.  
 24 Q So Mr. Capogrosso --  
 25 A Now, what would you -- the

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1 M.H. Capogrosso  
 2 man should not have put his hands on my  
 3 briefcase if that's what he did on that  
 4 day, but I was in the -- I was either  
 5 sitting on his chair or my briefcase was  
 6 on his chair and I'm making a phone call  
 7 to a client and I'm telling the other  
 8 lawyer leave my briefcase alone, that I  
 9 probably said or I was sitting on his  
 10 chair, which I had a right to do.  
 11 Q Mr. Capogrosso, if -- and I  
 12 know you don't believe that it's true and  
 13 I know you don't agree, but if everything  
 14 that these four people said about you was  
 15 true and you had been yelling and cursing  
 16 at people about moving your stuff and  
 17 saying that the judge should put a gun to  
 18 his head, would those be grounds to expel  
 19 you from the TVB?  
 20 A No. First of all, I'm not  
 21 going to talk about hypotheticals because  
 22 none of that that they're saying  
 23 happened. I told you exactly what  
 24 happened that day. I'm not going to deal  
 25 in hypotheticals. I know what happened

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1 M.H. Capogrosso  
 2 that day. I was there. I was there.  
 3 Q Let me --  
 4 A I know what happened.  
 5 Q Let me you ask a question.  
 6 A Well, let me ask you a  
 7 question. Tahir said the word mother  
 8 fucker throughout the day. He doesn't  
 9 get removed. He said the word mother  
 10 fucker to everybody and everyone, every  
 11 client sometimes. He says mother fucker  
 12 judge this, he got a bad hearing. He  
 13 says it all the time.  
 14 Diantha Fuller cursed me  
 15 out. She curses. Are they being removed  
 16 from the Brooklyn TVB, no. No, they're  
 17 not. So what is their basis? Attorneys  
 18 curse all the time if it's not on -- they  
 19 do it at -- they curse all the time down  
 20 there. I'm sorry --  
 21 Q So let me ask you --  
 22 A -- but I don't see any other  
 23 attorney getting thrown out.  
 24 Q Mr. Capogrosso, let me ask  
 25 you the question if I may. I have a

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1 M.H. Capogrosso  
 2 question for you. What conduct or  
 3 behavior would justify someone being  
 4 expelled from the TVB?  
 5 A I have no idea. I don't  
 6 know. I didn't verbally abuse anybody.  
 7 I used the word eesha, eesha.  
 8 Q So --  
 9 A That's not verbal abuse.  
 10 Imagine I said stay away from my stuff, I  
 11 don't think that's verbal abuse. Maybe I  
 12 sat in somebody's chair. That's not  
 13 verbal abuse. I didn't threaten anybody  
 14 with any physical conduct -- with any  
 15 physical -- with anything.  
 16 Q So --  
 17 A I didn't threaten anybody.  
 18 Q -- Mr. Capogrosso --  
 19 A I don't know.  
 20 Q You don't know what standard  
 21 of behavior -- you don't know what  
 22 infractions would justify someone being  
 23 expelled from the TVB?  
 24 A Well, have the same standard  
 25 for everybody. Have the same standard

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1 M.H. Capogrosso  
 2 for everybody.  
 3 Q I'm not asking about your  
 4 standard. I'm asking about the TVB's  
 5 standard.  
 6 A I don't know. Ask the TVB.  
 7 I know I didn't verbally abuse anyone. I  
 8 abused no one.  
 9 Q Let me ask you this, is  
 10 there --  
 11 A I didn't abuse anyone.  
 12 Q Is there anything that you  
 13 could do that would justify your being  
 14 expelled from the TVB?  
 15 A I don't know. You tell me.  
 16 I don't know. Take -- I'll tell you  
 17 what, what I would do, if you took a case  
 18 as a lawyer and you didn't argue that  
 19 case before the judge and you just took  
 20 the money and didn't show up, yeah, I  
 21 would think that would get you removed.  
 22 That's why I took it very  
 23 seriously about showing up on every case.  
 24 When they threw it at -- you know, you  
 25 didn't show up for a case that you got

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1 M.H. Capogrosso  
 2 paid on, I think that would be egregious.  
 3 I think if you bribed a  
 4 clerk, which the attorneys -- or give  
 5 money to a clerk, I think that would be  
 6 egregious and you should be thrown out,  
 7 absolutely and I saw that or you gave  
 8 money to a clerk and cash gifts to a  
 9 clerk because you were seeking favor from  
 10 that clerk, I think that's a reason.  
 11 Paying off and bribing  
 12 clerks, I think that's a reason,  
 13 absolutely.  
 14 Q Do you think that there's  
 15 anyone else who practiced before TVB who  
 16 should have been expelled?  
 17 A Absolutely.  
 18 Q Who?  
 19 A Any lawyer who's bribing a  
 20 clerk, giving a clerk money. I think --  
 21 Q Can you name anyone specific  
 22 who you think should have been expelled?  
 23 A Any clerk -- any attorney  
 24 that's covering cases for Judge Gelbstein  
 25 I think should be thrown out. I think

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1 M.H. Capogrosso  
 2 that's totally inappropriate if  
 3 Gelbstein's got a caseload and there's an  
 4 attorney covering cases for him.  
 5 Q I understand that, but the  
 6 question was can you name --  
 7 A Name anyone?  
 8 Q -- anyone by name who should  
 9 have been expelled?  
 10 A Anybody who was paying  
 11 clerks and giving clerks cash in gifts  
 12 and buying breakfast to get favor from  
 13 those clerks, yes.  
 14 Q The question is by name --  
 15 A By name?  
 16 Q -- can you name anyone?  
 17 A You have to do your job.  
 18 I've done my job here. I told you what I  
 19 saw and I see. That's the Attorney  
 20 General's job. That's the DMV Inspector  
 21 General's job. That's not my job.  
 22 I told you what I saw and  
 23 what I -- you asked me a very specific  
 24 question. That would be the reason for  
 25 expelling somebody, bribing clerks.

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1 M.H. Capogrosso  
 2 Getting --  
 3 Q So just for the record, you  
 4 have not named anyone.  
 5 A How about Judge Gelbstein  
 6 asking for a piece of the action?  
 7 Absolutely he should be out. Absolutely  
 8 he should be out.  
 9 Ida -- Ida Traschen should  
 10 be thrown out for not viewing evidence,  
 11 not viewing evidence.  
 12 Danielle Calvo should be out  
 13 for not viewing evidence and saying I  
 14 pushed Smart when she didn't view the  
 15 push. Danielle Calvo should be out  
 16 because she didn't view any evidence.  
 17 Melanie Levine should be out  
 18 because she filed a false report. She  
 19 should be out for filing a false report  
 20 about me and that could have been very  
 21 easily investigated.  
 22 Who else? Smart.  
 23 Vahdat should be thrown out  
 24 by giving a false statement that I  
 25 followed a clerk and stopped him, which

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1 M.H. Capogrosso  
 2 is not what happened because if you asked  
 3 George Hon, that's a false statement.  
 4 She should be thrown out because George  
 5 Hon approached me that afternoon because  
 6 I was talking to his girlfriend and I  
 7 told you that.  
 8 Those are the people who  
 9 should be thrown out.  
 10 Q Anyone else?  
 11 A Traschen. Who else did I  
 12 miss? Vahdat, Gelbstein. Gelbstein for  
 13 getting a piece of the action, having  
 14 lunch with ticket brokers and meeting  
 15 with ticket brokers when he doesn't know  
 16 what they're doing.  
 17 The judges -- the lawyers  
 18 paying off the clerks, giving them money.  
 19 The clerks accepting the money. The  
 20 clerks accepting the money. The clerks  
 21 advising motorists, and I heard this at  
 22 the DMV, these clerks advising go plead  
 23 yourself guilty. You're not going to get  
 24 any points. What are you telling a  
 25 motorist? A clerk was doing that.

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1 M.H. Capogrosso  
 2 Telling a motorist to go plead yourself  
 3 guilty or you don't need an attorney on  
 4 this, just go plead yourself guilty.  
 5 Why is a clerk giving advice  
 6 to a motorist? That was happening all  
 7 the time. I would get upset with that.  
 8 Those are the people who  
 9 should be thrown out, but -- those are  
 10 the people, not a hard working attorney  
 11 who has no complaints by any clients or  
 12 motorists, no, absolutely not.  
 13 Tanya Rabinovich should be  
 14 thrown out. She's calling herself a  
 15 lawyer and collecting a fee and going to  
 16 the counter and the clerks are doing  
 17 business with her. She's rescheduling  
 18 cases and pleading people guilty at the  
 19 counter and she's not a lawyer. She  
 20 should be thrown out.  
 21 That's who should be thrown  
 22 out.  
 23 Q Well, I have no further  
 24 questions.  
 25 A There you go.

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1 M.H. Capogrosso  
 2 MR. THOMPSON: Ms.  
 3 MacDonald, Mr. Brodsky, is there  
 4 anything that we should discuss here  
 5 before we go off the record?  
 6 MR. VIDEOGRAPHER: If  
 7 there's any stipulations you want to  
 8 put on the transcript, you can tell  
 9 the court reporter.  
 10 MR. THOMPSON: I think only  
 11 that we agreed at yesterday's  
 12 deposition that Mr. Capogrosso would  
 13 share a copy of those transcripts  
 14 with me and that I would share a copy  
 15 of today's with him, correct?  
 16 Is that right,  
 17 Mr. Capogrosso?  
 18 THE WITNESS: Yeah. You're  
 19 going to send me a copy, I'll send  
 20 you a copy of what I ordered,  
 21 absolutely.  
 22 MR. VIDEOGRAPHER: Then I'll  
 23 wrap it. Here ends media unit number  
 24 six --  
 25 THE WITNESS: I'm sorry.

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1 M.H. Capogrosso  
 2 One question to Attorney Thompson.  
 3 How are you going to send me a copy?  
 4 Are you going to e-mail it to me or  
 5 are you going to send me a hard copy?  
 6 MR. THOMPSON: That's a good  
 7 question. I actually don't know what  
 8 format I'm going to get this in.  
 9 So, Ms. MacDonald, are we  
 10 going to get digital, hard copy or  
 11 both?  
 12 MS. REPORTER: However you  
 13 want to order it.  
 14 MR. THOMPSON: That's a good  
 15 question. I generally much prefer  
 16 digital. Can I e-mail it to you?  
 17 MS. REPORTER: I think  
 18 that's to you, Mario.  
 19 MR. THOMPSON: Yes.  
 20 Mr. Capogrosso?  
 21 THE WITNESS: All right. If  
 22 you get it digitally, I'll take it  
 23 digitally, that's it. I'm not going  
 24 to ask you print it out. If you get  
 25 it digitally, I'll take it digitally.

<p style="text-align: right;">Page 482</p> <p>1 M.H. Capogrosso</p> <p>2 If I get it by hard copy,</p> <p>3 then I'm going to get you a hard copy</p> <p>4 back, all right?</p> <p>5 MR. THOMPSON: Okay.</p> <p>6 THE WITNESS: However I</p> <p>7 receive it, I'll give it to you.</p> <p>8 However you receive it, you give it</p> <p>9 to me. That's all I can do.</p> <p>10 MR. THOMPSON: Digital is</p> <p>11 fine by us, so thank you.</p> <p>12 THE WITNESS: All right.</p> <p>13 The other question is you</p> <p>14 said you missed five pages out of one</p> <p>15 of my exhibits I gave you showing</p> <p>16 my -- my docket and my monies earned.</p> <p>17 I have to get you those five pages or</p> <p>18 if you ask your clerk in your office,</p> <p>19 I don't think they scanned it in</p> <p>20 because I didn't omit any pages, but</p> <p>21 I will check that, all right.</p> <p>22 MR. THOMPSON: And, you</p> <p>23 know, again as we did ask if you have</p> <p>24 any of the contemporary notes from</p> <p>25 2015 that you referenced, we'd like</p>	<p style="text-align: right;">Page 484</p> <p>1 INDEX</p> <p>2 INDEX TO TESTIMONY</p> <p>3 Page Line</p> <p>4 Examination by Mr. Thompson 127 6</p> <p>5</p> <p>6 INDEX TO REQUESTS</p> <p>7</p> <p>8 Page Line</p> <p>9 The notes 448 7</p> <p>10</p> <p>11 INDEX TO EXHIBITS</p> <p>12</p> <p>13 Description Page Line</p> <p>14 Exhibit 3 155 3</p> <p>15 Statement from L. Perez, Jr., Bates stamped P-80</p> <p>16 Exhibit 4 156 23</p> <p>17 Statement of Roy Tucci, Bates stamped P-82</p> <p>18 Exhibit 5 163 2</p> <p>19 Statement of Marisol Cervoni, Bates stamped P-84</p> <p>20 Exhibit 6 194 10</p> <p>21 Statement of Diantha Fuller, Bates stamped P-86</p> <p>22 Exhibit 7 210 10</p> <p>23 Statement with a list of signatures, Bates stamped DMV-000024</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 483</p> <p>1 M.H. Capogrosso</p> <p>2 copies of those as well.</p> <p>3 THE WITNESS: All right.</p> <p>4 Fine.</p> <p>5 MR. VIDEOGRAPHER: Okay.</p> <p>6 Then here ends media unit number six.</p> <p>7 This concludes the video recorded</p> <p>8 virtual remote deposition of Mario H.</p> <p>9 Capogrosso taken by the defendants on</p> <p>10 Friday, December 18, 2020.</p> <p>11 The time is 5:21 p.m.</p> <p>12 Eastern Standard Time and we are</p> <p>13 going off the record.</p> <p>14</p> <p>15</p> <p>16 -----</p> <p>17 MARIO H. CAPOGROSSO</p> <p>18</p> <p>19 Subscribed and sworn to</p> <p>20 before me on this _____ day</p> <p>21 of _____, 2021.</p> <p>22</p> <p>23</p> <p>24 _____</p> <p>25 NOTARY PUBLIC</p>	<p style="text-align: right;">Page 485</p> <p>1 Index</p> <p>2 Exhibit 8 228 16</p> <p>3 Statement of Yaakov Brody, Bates stamped P-92</p> <p>4</p> <p>5 Exhibit 9 252 3</p> <p>6 Statement of Richard F. Maher, Bates stamped P-250</p> <p>7 Exhibit 10 266 9</p> <p>8 Statement of M. Sadiq Tahir, Bates stamped P-96</p> <p>9</p> <p>10 Exhibit 11 280 14</p> <p>11 Statement of Jeffrey A. Meyers, Bates stamped P-248</p> <p>12 Exhibit 12 293 8</p> <p>13 Statement of Bushra Vahdat, Bates stamped DMV-0000224</p> <p>14</p> <p>15 Exhibit 13 311 10</p> <p>16 Letter dated January 25, 2012 to Ms. Fiala from Chris McDonough, Bates stamped DMV-0000226</p> <p>17</p> <p>18 Exhibit 16 326 19</p> <p>19 Letter dated May 15, 2012 to Chris McDonough and Jacqueline A. Rappel from Serwat Farooq, Bates stamped DMV-0000205</p> <p>20</p> <p>21 Exhibit 17 327 18</p> <p>22 Report from John T. McCann, PhD dated June 14, 2012, Bates stamped P-28 and P-29</p> <p>23</p> <p>24 Exhibit 19 333 7</p> <p>25 Letter dated June 20,</p>

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1  
2 CERTIFICATION  
3  
4 I, LISA H. MACDONALD, a Registered  
5 Professional Reporter and a Notary  
6 Public, do hereby certify that the  
7 foregoing witness, MARIO H. CAPOGROSSO,  
8 was duly sworn on the date indicated, and  
9 that the foregoing is a true and accurate  
10 transcription of my stenographic notes.  
11 I further certify that I am not  
12 employed by nor related to any party to  
13 this action.  
14  
15  
16  
17  
18 *Lisa H. MacDonald*  
19 LISA H. MACDONALD, RPR  
20  
21  
22  
23  
24  
25

1  
2 ERRATA SHEET  
3 VERITEXT/NEW YORK REPORTING, LLC  
4 1-800-727-6396  
5 330 Old Country Road 1250 Broadway  
6 Mineola, NY 11501 New York, NY 10001  
7  
8 NAME OF CASE: Capogrosso v Gelbstein  
9 DATE OF DEPOSITION: December 18, 2020  
10 NAME OF DEPONENT: Mario H. Capogrosso  
11  
12 PAGE LINE (S) CHANGE REASON  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22 MARIO H. CAPOGROSSO  
23 SUBSCRIBED AND SWORN TO BEFORE ME  
24 THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.  
25 (NOTARY PUBLIC) MY COMMISSION EXPIRES:

[0000003 - 266]

Page 1

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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